O. F. 71 & 72—658,614—21-11-29.

C.F. 71 & 72.

1932

Department of Land Revenue & Settlement

OFFICE Board of Revenue

STATION Madras

Mis No.

369

Dated 3.2.32

A. 2082/31

To whom sent		Date	Initial
	Given for copying		
	Copied		
	Examined		
	Signed		
	Given for despatch		
	Despatched		
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Peger to the file	To be destroyed on*		

(SUBJECT.)

Village Officers - South Kanara - Mangalore Tk - Kairangala V.o - Headman - Suspension - Narain Bhatta - Revision Petition - Orders passed

* Not to be filled in in the case of permanent records.

MADRAS
5 AUG 1931
LAND REVENUE & SETTLEMENT

RP 377
encl.

A. 2082

To

The Secretary to the Board of Revenue,.
Land Revenue.

Revenue Appeal No. of 1931.

Narain Bhatta, Potail of Kairangala,
Mangalore Taluq, South Kanara. .. Appellant (Petitioner)

Appeal against the order of the Collector and District Magistrate of South Kanara, dated 19-6-31 in Ref. C.R.C.20/31 dated 11-5-31 directing the Appellant to show cause why the punishment of two years' suspension should not to be enhanced.

Under Paragraph 13 B.S.O.148 and Section 23 Madras Act III of 1895.

The Appellant above-named begs to appeal to the Honourable Board on the following grounds inter alia.

1. The order of the Lower Court is unfair, unjust and not supported by any reliable evidence on record.

2. The Proceedings against this appellant, who was

a prosecution witness in C.C.No.1/1931 on the file of the Sub Divisional Magistrate, Puttur arose out of the Collector's order L.Dis. No.1932-31 dated 24-2-31. - Enquiry was held by the Sub Divisional Magistrate Mangalore and in D. Dis No.1058-31 dated 4-5-31, the Divisional Officer Mangalore passed orders suspending the Appellant for a period of two years and a notice was - issued from the District Collector's Office on 14-5-31 sking the appellant to show cause why the punishment should not be enhanced and final orders were passed by the District Collector on 19-6-31 and the appellant appeals against this final order confirming the order of two year's suspension by the Mangalore Revenue Divisional Officer.

3. The appellant was a prosecution witness, viz., P.W.3 in C.C.1/31 of the Sub Divisional Magistrate Puttur, and the subject matter in the complaint was a demand --- Promissory note for Rs.200/- alleged to have been extorted by one Hasane Beary (Accused) from M. Vasudeva Prabhu, -- Revenue Inspector of Panemangalore, (P.W.1). The demand promissory note is Exhibit D of the order passed in C.C. No.1/31. The Appellant has been treated as a hostile witness by the prosecution (P.W.3).

4. The Accused Hasane Beary was discharged by the Puttur Sub Divisional Magistrate and the Collector and - District Magistrate called for the records suo moto and sitting as a Court of Revision ordered retrial of the Accused on 19-6-31. The enquiry papers relating to the -

conduct of the appellant and the Revision of the Criminal Case against Hasange Beary were disposed of on the same date and both the cases were heard also on the same date and now that the retrial has been ordered, it is quite clear, that the alleged Execution or extortion of the pro-
ote is a matter subjudice and under enquiry by the ---
reasury Deputy Magistrate Mangalore. The same is posted
r trial on 7-8-31.

Trial stopped / taken up

5. This Appellant is found guilty of gross misconduct in the affair of the pronote by the enquiry officer in Mangalore Revenue Divisional Office, for the reason that the pronote was retained by the appellant or was retained with him and recovered from him by the police and that he did not send any report regarding the same.

6. The Collector and the enquiry Officer were faced with two versions regarding the pro-note by the appellant (P.W.3) and the Revenue Inspector M. Vasudeva Prabhu (P.W.1) both of whom have been examined as witnesses in C.C.1/31 of Puttur Sub Divisional Magistrate. Explanations have been called for from both the appellant and the Revenue Inspector. There are absolutely no grounds to believe the statement of the Revenue Inspector and reject that of the appellant.

7. That the Appellant is entirely innocent in the matter and does not deserve the punishment meted out to him

8. That in the matter of the removal of the ~~on~~ V

encroachment and in C.C. 1/31 of Sub Divisional Magistrate Puttur as P.W.3 the appellant has stated the bare truth. He is not a party or abetter to the alleged extortion and he has not suppressed the truth in the case. He has incurred the displeasure of the Revenue Inspector, the Complainant in the case by not embellishing the facts and events that actually took place.

9. That the promissory note in question was not executed at the instance of the appellant and it is not even the case of the complainant i.e. the Revenue Inspector M. Vasudeva Prabhu.

10. That the Appellant pacified the Accused Hasane Beary and said that no note was necessary. It cannot -- certainly be a disingenuous Explanation to say that the Revenue Inspector wrote the pro-note and kept it with the Appellant as mere Security to satisfy the encroacher that he, the Revenue Inspector would make good his word to pay the promissed damage and the Revenue Inspector had left word requesting the potail to let him know the attitude of the encroacher the next morning

11. That the Appellant potail being the subordinate of the Revenue Inspector had to obey him and hence it was that the letter was written next day to the Revenue Inspector that the encroacher persisted in his attitude to file a complaint in case the promissed amount was not paid to him.

12. That in his report or complaint the Revenue Inspector made no allegations of abetment or misconduct and

it is rather hard that after the case was disposed of he should be found guilty of misconduct by another Officer, though the trying Deputy Magistrate of Puttur does not even find him guilty of any such conduct in C.C.1/31.

13. That the version in respect of the alleged Extortion has not been accepted by the Court in C.C 1/31

14. That the Appellant has been a long standing potail with 20 year's Experience and the Office is hereditary in his family. He has done his duties all these years without any blemish and the proceedings against him ought to have been dropped.

15. That the punishment of 2 years' suspension is out of all proportion to the guilt involved, if any, in the peculiar circumstances of this case.

16. It is therefore prayed that this Honourable Board will be pleased to call for

Flag (2) (a) 1. Collector's order L.Dis No.1932-31;

pp 33-50 c.f. 2. Records of C.C.No.1/31 of Puttur Sub Divisional Magistrate;

∧ p. 53 c.f
∧∧ p 51 c.f 3. Charges framed against the Revenue Inspector M. Vasudeva Prabhu and the Appellant Narayana Bhatta by the Revenue Divisional Officer, Mangalore Division.

pp 53 - 54 and 51 c.f 4. The Explanations of the Appellant and the Revenue Inspector.

5. Proceedings of the Revenue Divisional Officer, Mangalore Division dated 4-5-31 in D.Dis No. 1058-31.

Page (K) -

6. Notice dated 14 (11)-5-31 to the appellant from the District Magistrate of South Kanara to show cause why the punishment should not be enhanced.

p. 32 of (T)

7. Proceedings of the Collector and District Magistrate of South Kanara, dated 19-6-31 in Ref.C.R.C.20/31 dated 11-5-31 of the Collector of South Kanara.

pp 1-3 Pag (T)

8. Proceedings of the District Magistrate of South Kanara in C.R.C.20/31 dated 19-6-31.

pp 1-2 of (T)

(b) And after going through all these records will be pleased to set aside the order of the Collector and District Magistrate of South Kanara and the Mangalore Revenue Divisional Officer suspending the appellant for a period of two years, for which act of kindness, equity and justice, your appellant (Petitioner) will ever Pray.

Mangalore,)
Dated 3- 8 - 1931.)

Appellant.

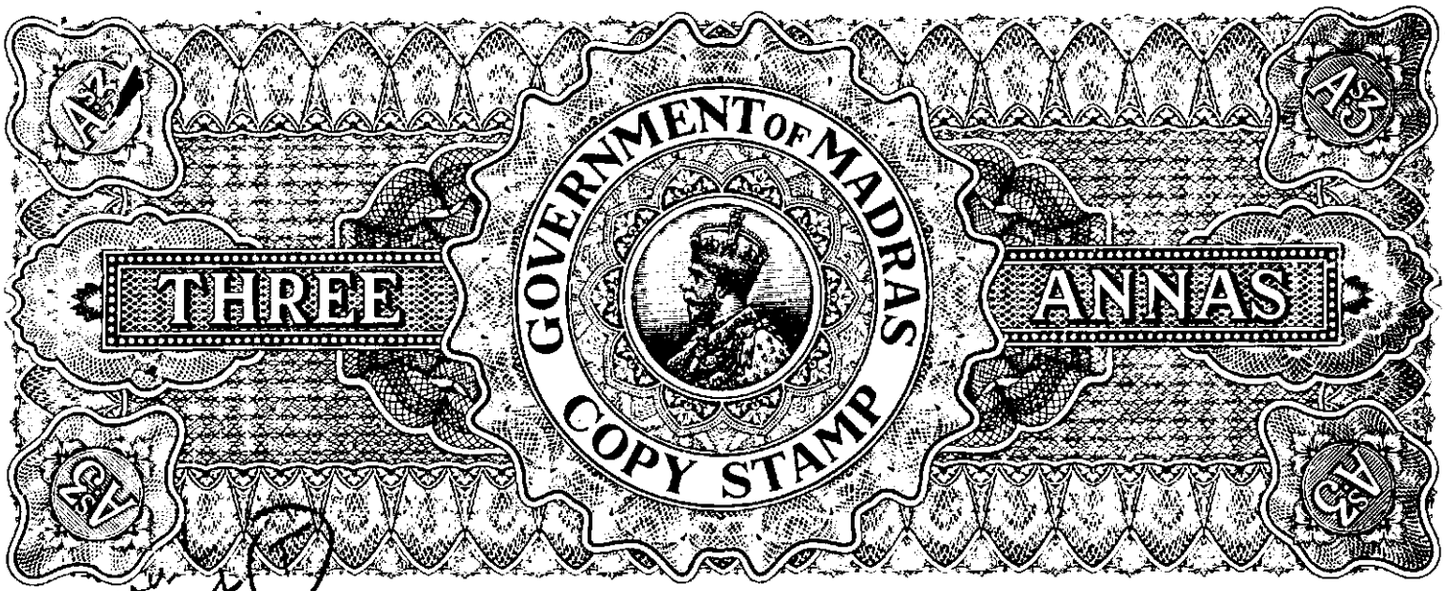
(Errata only)

ENCLOSURE:

Order in Ref. C.R.C.No.20/31 of the District Magistrate, South Kanara, dated 19-6-31.

Mangalore,)
Dated 3-8-1931.)

APPELLANT.



Original
A/P 8104

Proceedings of the Collector and Dt. Magistrate. -
South Kanara — Dated 19th June 1931 —

Khan Bahadur J. Hussain (Bar at Law)

Read this office order Ref. C. No. 20/31, dated 11-5-3
directing the Patail of Kairangala Narayan Bhat
to show cause why the punishment of suspension
of 2 years should not be enhanced to dismissal
from service and the Shanbhoag of Kairangala
one of ells. Krishna Rao to
show cause why he should not be punished -
Read the explanations of the V.O's -

order

In the matter of the punishment of the V.O's on
further consideration I don't think that interference
with the R.D. O's order is called for.

(Sd.) J. Hussain
19/6/31 Collector & Dt. Magistrate

Copied by Y. Compd. 24-7-31
Total words = 119
234 " 21-7-31
— "
21-7-31
24-7-31
21-7-31

Certified to be a true copy.
(True copy on one sheet)

Deputy Collector

Patl.
Patail Narayana Bhatta
of Kairangala
Thro' V.K. Keeth. Rao

2253.
14-7-31

No. A. 2082/31

Office of the Board of Revenue,
Land Revenue and Settlement,
Chepauk, Madras, 7/8/31 19

M.R.Ry. Narain Bhatta of Kairangala

is informed that his petition dated 3-8-31

has been received by the Board of Revenue but is

defective in the following respects.-

Want of C. F. labels of the value of Rs 2-00 two only to be affixed to the petition and the Collector's order.

2). a stamped and authenticated copy of the order of the Rev. Divl Officer.

The defect should be supplied before 7-9-31

failing which the petition will be rejected.

KB.
6/8/31

for Asst. Secretary
7-8-31

To M.R.Ry

Narain Bhatta
Patel
Kairangala
Mangalore Tk, South Kanara

7 SEP 1931

LAND REVENUE & SETTLEMENT

W1442
M3.8.32
enl.

A 2432

From

Narain Bhatta,
Potail of Kairangala village,
Mangalore Taluk.

To

The Secretary,
Office of the Board of Revenue,
Land Revenue, Chepauk,
MADRAS.

Sir,

Re: Information under P.C.No.A 2082/31
Dated 7th August, 1931.

Refering to the above memo from your honour's office I most humbly and respectfully beg to enclose herein Court fee labels to the value of Rs.2/8, the Revenue Divisional Officer's duly stamped and authenticated copy of the order &c. in order to make good the defects noted.

Pray that the said application referred to in the above referred to memo be kindly and favourably considered; for which act I snall ever remain grateful.

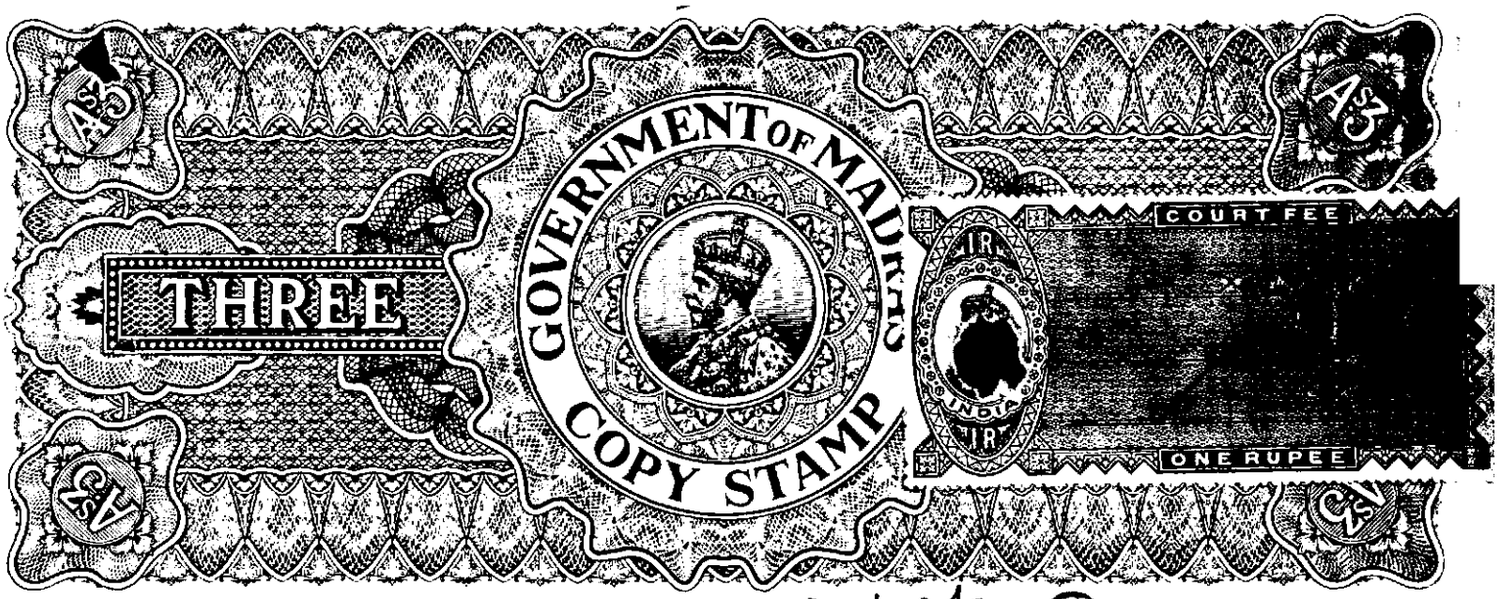
beg to remain,

Sir,

Yours most obediently,

Narain Bhatta

Mangalore,)
Dated 2nd Sepr.31.)



D. Dis No: 1058-31. original at pp 29-31 of (1c)

Proceedings of the Revenue Divisional officer, Mangalore Division, dated 4th May 1931.

M. R. Ry R. Subrahmania Aiyyar, Avl. B.A.

Criminal Justice - C.C. No: 1/1931 on the file of the Sub Divisional Magistrate, Puttur - Action about the conduct of Revenue Inspector, Panemangalore and Potail of Kairangala (Narayana Bhatta) - Collector's order L. Dis No: 1932-31, dated 24-2-1931 - Enquiry order passed.

Read (1) Collector's order quoted above.

(2) Records of C.C. No: 1/1931.

(3) Charges framed against the Revenue Inspector Panemangalore (M. Vasudeva Prabhu) and the Potel of Kairangala Narayana Bhatta.

(4) Their explanations.

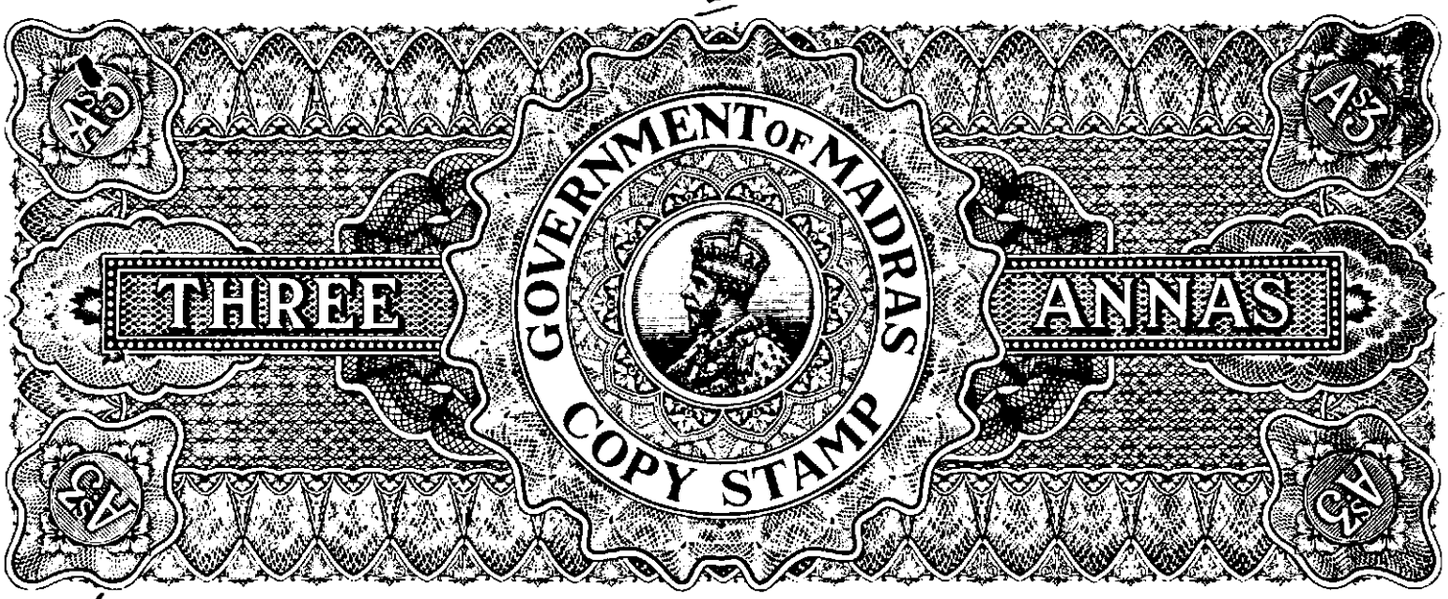
Heard the Potel and the Revenue Inspector at the time of the Jamabundy.

Order

The Revenue Inspector of Panemangalore executed an order of eviction against one Hassane Beary in respect of an encroachment made by

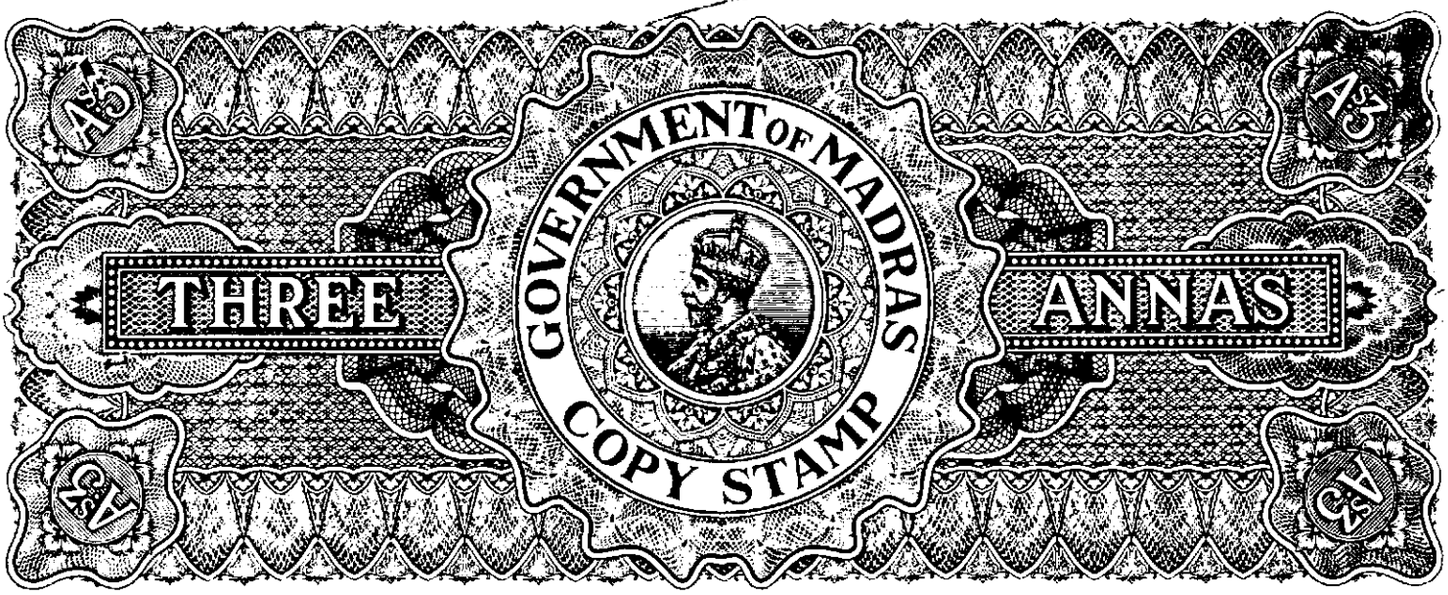
AW

2690.
31-8-31.
От. М. Алексеев



him in a cart track poramboke in Kairangala
This was on 12-12-1929. The patel of Kairangala wa
present at the time. Before the Revenue Inspector
returned from the place and soon after the evictio
was carried out, the encroacher Hasane Beary
returned to his house and threatened personal
harm to the Revenue Inspector. The encroacher
was known to be a desperate moplah. The patel
of Kurnad and the shanbhogue of Balepuni wh
were also present at the time moved away
from the scene just at this time. It was right
and the Revenue Inspector who was new to his
firka apprehended danger to his person. As
suggested by the patel of Kairangala he exe
-cuted a pronote for Rs 200/- in favour of the
patel as compensation to be paid to the en-
-croacher for the damages caused to his house
in his absence. The next day 13-12-1929 the
patel sent an unsigned letter in his own
hand-writing to the Revenue Inspector in
which he warned the Revenue Inspector that the
encroacher Hasane Beary would get him

2669
31-8-31.
Mr. M. Alvarinos

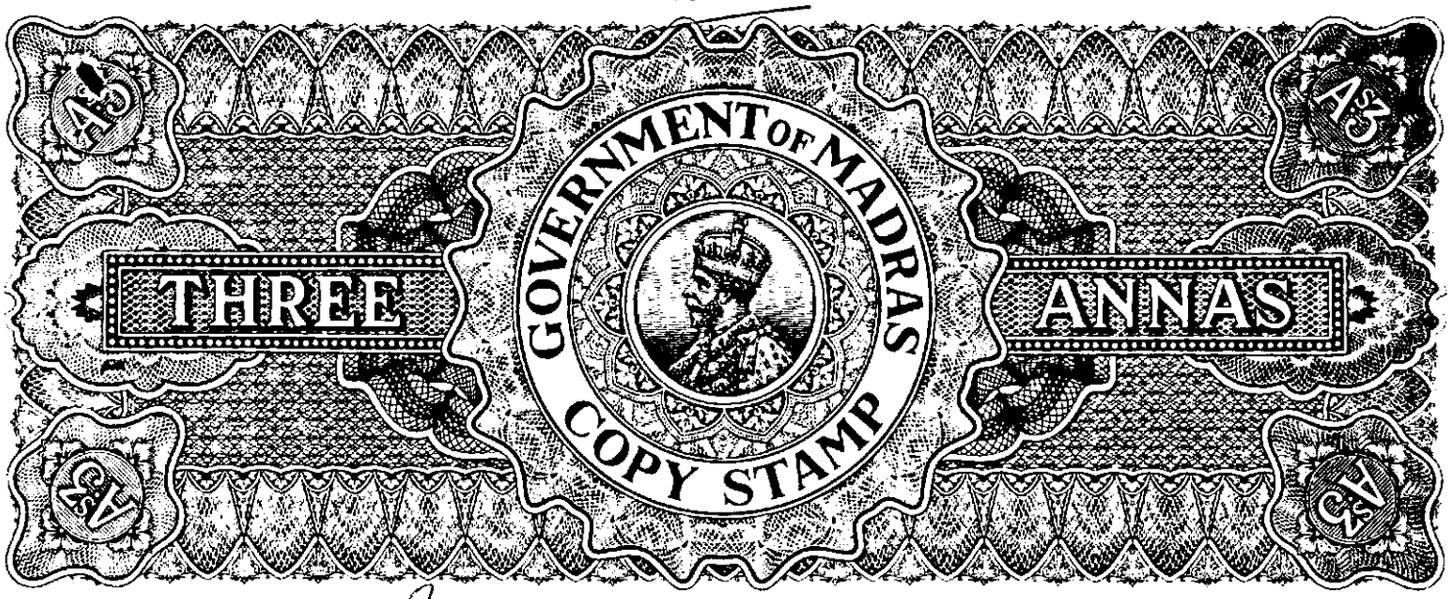


into trouble if the payment was not made within 15 days.

2. The Revenue Inspector preferred a complaint of extortion on 13-12-1929 against Hasane Beary and the patel of Kairangala was one of the witness for the prosecution. In his evidence in court, the patel stated that the Revenue Inspector executed the pronote of his own accord without any suggestion from any one and that he told the Revenue Inspector that no pronote was necessary to pacify the accused. It is however admitted that the patel retained the pronote with him and that he sent an unsigned letter the next day to the Revenue Inspector demanding early settlement of the pronote on pain of serious trouble.

3. The Sub Divisional Magistrate, Puttur who enquired into the case of extortion disbelieved the genuineness of the pronote and he was of opinion that it was perhaps a subsequent creation. If it was so, the patel was guilty of gross misconduct. If on the other hand

2668.
31-8-31.
от. м. алексеев



the Revenue Inspector's version is to be believed it is clear that the potel wilfully suppressed the truth in his evidence before the Court and he has abetted the extortion by the accused. It was his duty to report to the authorities without delay all the facts of this case especially when he chose to retain the pronote with him the previous night. His conduct that night was in keeping with his subsequent conduct in writing a warning letter to the Revenue Inspector the next day demanding early payment. In either view of the case the potel is guilty of gross misconduct. The pronote was recovered from the potel by the investigating Police officer and until then the potel sent no report in the matter. His explanation that the Revenue Inspector left the pronote with him and refused to take it back is disingenuous. I suspend the potel for a period of two (2) years.

(Signed) R. Subrahmania Aiyyar
4.5.1931. Revenue Divisional Officer

AW

~~26~~

2667.
31-8-31.
W. M. Alvares vs

Total words 648 =		
Application No. 282/31 for copy received from Narayana Bhatta	}	on 31.8.31
Stamp papers called for		" 31.8.31
Stamp papers produced		" 31.8.31
Copy ready		" 2.9.31
Copy delivered or sent by	}	" 3.9.31

copies Rs 1 - Compared by
A.W.
A.M. 3

Errors nil only
/True copy on four Sheets/

W. B. Kamkar. Clerk
2/9/31
Head Clerk,
Mangalore Div. Office.

DEPUTY COLLECTOR
SOUTH CANARA

A·S·(L&R)

Subject.— R. F. XXII-A-19—39,500 22-4-30 (6)

FOR MEMBER V·O·S – (South Kanara) – Mangalore Tk – Kairangala – Headman – suspension – Narain Bhatta – Revision Petn.

READ AGAIN B. P. No. ____ —, dated ____ ____ 19

" " " ____, " ____ 19

READ ALSO :—

Register No. ____, From the A. 2082/31 pp No-11 C·7, dated 9 ____ 193

" " ____, " " ____, " ____, " ____ 193

" " ____, " " ____, " ____, " ____ 193

RESOLUTION. Refer No. A. 2082/31 dated 1/9 24-9-1931

Forwarded to the Collector of South Kanara for submission of the copies (1) the judgment of the Sub Divl. Magte, Puttur in C.C. 1 of 31, (2). the depositions of the petitioner and the Rev. Inspector in the case; (3). the charges framed by the Divl. Officer, Mangalore against the petitioner and Rev. Inspector and their explanations, (4) the depositions of the petitioner and the Rev. Inspector at the retrial

1st Reminder issued on 26/10/31
KS. fm.
26/10/31

D 26 SEP 1931

24/9/31

5) the judgment of the T.D.C
deputy magistrate
and other connected records
with remarks on any
allegations in the petition
which have not been
clearly dealt with in the
records.

K.S. 21/9/1931

To
The Collector of
South Kanara
for with the petition in original
Encls.
pp. 1-14 & 1960 26

29 IRP 08 ends A 3101

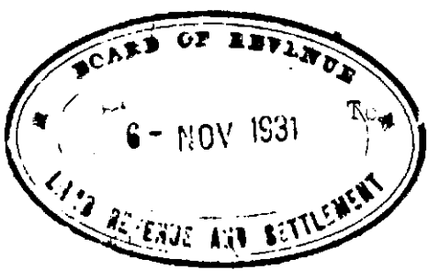
D.Dis.No.C.1-1. Dist. Collector's Office,

Mangalore, 1st November 1931.

FROM

Khan Bahadur S. Hasan, B.A., B.L.,

Collector of South Kanara.



The Secretary to the Board,

Land Revenue & Settlement,

Ootacamund.

Sir,

Village Officers - (South Kanara) - Kasaragod Taluk - Mairangala village - Headman - Suspension - Validity of - Revision petition - Report submitted.

Ref.

Board's Reference R.No.2082-31-1, dated the 3rd October 1931.

DD 1-11 C-7

I resubmit herewith the petition of Marivi Kottil, Kottil of Mairangala village together with its enclosures received with the Board's reference quoted above and have to submit copies of the following documents:-

DD 33-39 C-7

(1) Judgment of the Sub Divisional Magistrate, Hosdrug in C.C.No.1/31.

(2) Depositions of the petitioner and the Revenue Inspector in the case.

DD 31-43 C-7 DD 45-49 C-7

(3) The charges framed by the Divisional Officer, Mangalore against the petitioner and the Revenue Inspector and their explanations. As regards the records of the trial, the case which was on the file of the Treasury Deputy Magistrate now stands transferred to the file of the Sub Magistrate, Hosdrug and the retrial has not yet begun as the accused has been absconding.

C 31 D 0 D 53 C 7 D 53 C 7 C 31 51 D 53.54 C 7

2. The incident which led to the criminal removal of the headman is in Mairangala village. The Revenue Inspector, (illegible)

cart track Poramboke. Proceedings under the Land Encroachment Act were instituted against him and an eviction order was issued by the Revenue Divisional Officer, Mangalore in the matter. The Revenue Inspector carried out the eviction order by removing a window and part of the roof and making gaps in the compound wall. As the Revenue Inspector and the party which included the petitioner was about to leave the place, the encroacher who was not present at the time of the removal of the encroachment, turned up and threatened to kill the Revenue Inspector and finally got a pronote executed in favour of the petitioner for Rs.200/-. The Revenue Inspector was then allowed to leave the place. This took place on 12th December 1929. The next day the Revenue Inspector gave a complaint to the Police, who seized the pronote from the petitioner on 15th December 1929 and charge sheeted the encroacher Hasane Beary under Section 392 I.P.C.

3. The case was finally tried by the Sub Divisional Magistrate, Puttur who discharged the accused. Thereupon, pp. 38 c.f. the District Superintendent of Police moved the District Magistrate in revision and the case came up before me on the criminal side. On a perusal of the evidence in the case, I was satisfied that the Sub Divisional Magistrate's assumption that the pronote affair was a subsequent concoction was not warranted from the evidence on record and that there was a miscarriage of justice. I therefore ordered a retrial of the case. Please see my order dated 19th June 1931 in C.R.C.20/31. This has been upheld by the High Court in C.R.C.674 of 1931. Please see page 83 of my file C.R.C.No.20/31. As already stated, the retrial has not, however, commenced, as the accused has been absconding.

pp 3-4 of (T)

pp 1-2 of (T)

p 83 of (T)

4. The punishment inflicted on the petitioner was an aftermath of the criminal case. On a perusal of the Puttur Sub Divisional Magistrate's judgment in C.C.1/31 of his file, Mr. Wells asked the Revenue Divisional Officer, Mangalore to deal with the Revenue Inspector and the petitioner after obtaining their explanations. Please see this office L.Dis. 1932-31, dated 24th February 1931. The Revenue Divisional

pp 33-39 c.f.

p. 7-8 of (L)

officer accordingly and asked their explanation. ... the petitioner with the learned magistrate's observations ... given him in his order D.D.I.S.(C&E)-31, ... as regards the conduct of the Revenue Inspector ... the conclusion that the Revenue Inspector's ... true and reported to me accordingly in his D.O. letter ... dated the 7th April (page 9 of C.A.C.2C/31) and I ... him in his view. That was also my considered opinion ... C.A.C.2C/31. In connection with the latter criticism ... petition, I also issued a notice to ... cause why the punishment should not be enhanced to ... dismissal, but on further consultation and ... minutely into the records of the case, ... necessary to interfere with the Revenue Divisional ... order.

5. There is no doubt that the complaint of the Revenue Inspector is true and it is equally undeniable ... the conduct of the petitioner as Patwari of the ... representations. Whatever the shortcomings or ... the evidence against the accused Hasan Shah, ... sufficient material to proceed against the petitioner departmentally. ... the accused was accompanying with the police had laid a charge against him, the ... Magistrate, ... before had examined the Revenue Inspector ... witnesses (Messrs Ijaz Ahmad Baig (a) Nanda Shetty and Tara Singh (b)) under Section 512. I enclose copies of their depositions ... dated 27th May 1968. Apart from the Revenue Inspector's ... evidence, there is the evidence of the ... accused threatened to kill the Revenue Inspector ... agreed that the Revenue Inspector should suggest ... for Rs.200/- in the name of the petitioner ... should pay the accused that amount. ... Shetty, though they turned hostile ... the case under section 164 Cr.P.C. ... affidavits. ...

6. That the petitioner was an active party to the affair cannot be doubted. Were he really not interested in the accused, he would certainly have surrendered the pronote and reported the matter to the Deputy Tahsildar, Buntwal, the very next day as proof of his bona fides - On the contrary, he not only turned hostile to the prosecution just to help the accused-and in fact, as remarked by the Sub Divisional Magistrate in his judgment, one is unable to correctly understand his attitude - but also aggravated his guilt by sending an unsigned letter. (Exhibit F) to the Revenue Inspector the next day after the occurrence asking him to pay the amount and stating that failure to do so would get him (Revenue Inspector) into trouble. Though the letter has not been signed, the petitioner has admitted it before the Sub Divisional Magistrate, Puttur in his evidence on 28th January 1931. In para 11 of the petition, however, the petitioner has attempted to explain away this by the plea that he wrote the letter because the accused persisted in his attitude to file a complaint against the Revenue Inspector and that he did it for the sake of the Revenue Inspector. The explanation is wholly disingenuous and speaks for itself and the petitioner. If really he did it in the interests of the Revenue Inspector there was no need to leave it unsigned. The omission to sign can only be attributed to a guilty conscience and a desire to conceal the guilt, in case the affair should come to light.

P.36 C.7. P.42 C.7. P.7 C.7

7. The petitioner is a potail and an influential man in the village and the conclusion is irresistible that but for his passive acquiescence, the accused would not have gone to the length of extorting a pronote from the Revenue Inspector under threats. The mere fact that the pronote was got executed by the accused in the name of the petitioner is sufficient to show that the petitioner was in the confidence of the accused.

8. The records noted in the margin are enclosed.

(K) (1) Mangalore Revenue Divisional officer's D.Dis.1058-31, dated 4-5-1931.
(T) (2) District Magistrate's C.H.C.20/31.
(L) (3) Do. L.Dis.1932-31.

3/11/31

For C[illegible]

3-11-31

Cr. J. Mis. 124—3,3146—

In the Court of the Sub-divisional I Class Magistrate, Puttur Division.

JUDGMENT IN CALENDAR CASE No. 1 of 1931 ON THE FILE OF THE Sub-divl. MAGISTRATE'S Puttur Division.
Dated the 30th day of January 1931.

Present:- L.R.Ry. T. L. Mallikarjuna Ayyar, Avl.,B.A.,

Complainant	King Emperor (Charge sheet in F.I.No.84/29 of Mangalore Town Station.
Accused	Hasane Beary.
Offence	Robbery section 392 I.P.C.
Finding	No case made out.
Order Sentence	Discharged under section 253 (1) C.P.C.

Description of the Accused.						Date of						Explanation of delay.
Name	Father's name.	Caste or race.	Occupation.	Residence.	Age.	Occurrence.	Complaint.	~~Appearance~~ Apprehension.	Release on bail.	Commencement of trial	Close of trial	
Husane Beary.	Usman Beary	Moplah		Kairanga	40 years	12-12-29 Kairangala.	Received by transfer on 2-1-31.	10-1-31	10-1-31	28-1-31	28-1-31	Order pronounced on 30-1-31. Proceedings sent to Dt. Superintendent of Police(S.K.

34

Order

The accused is put up by the Police under Section 392 I.P.C. and the prosecution case is that the accused on 12-12-29 at about 11 A.M. in Kairangala village put the Revenue Inspector, Vasudeva Prabhu in fear of wrongful restraint and hurt and then extorted from him a pronote for Rs. 200 in favour of the Potel of Kairangala -

2. Four witnesses have been examined for the prosecution and of these two have been treated as hostile. P.W.1 is the Revenue Inspector of Panemangalore Firka and he is the complainant in the case. The accused had built a house on a cart track poramboke and was living there with his wife. That was treated as an encroachment and orders were issued by the Revenue Department for its eviction. P.W.1 was ordered to remove the encroachment by an eviction order. Ex.A is the eviction order. To carry out this order P.W.1 went to the house of the accused about 3 P.M. Along with him he took the Potel of Kurnad and his talayari. Later on the Potel of Kairangala (P.W.3) the Shanbhogue of Kairangala, talayari of Kairangala and P.W.2 (ugrani of Phajir Shanbhogue came to the locality. The Revenue Inspector says that he picked up Ahamad Beary - the brother of the accused on the way and took him also to the spot. When they all reached the place they found that the accused was not present in the house. There were only his wife and child there. The Revenue Inspector asked the wife and Ahamad Beary to remove the encroachment i.e. to dismantle the house. They wanted an hour's time and expected the accused to come by that time. The accused did not however turn up till sunset. By that time the Revenue Inspector got removed with the help of the village servants, the western window and part of the roof above and was getting gaps made in the compound wall.

3. About that time the accused came absuing with an angry face. As he came with threats the Revenue Inspector says, all who were there except the Potel of Kairangala (P.W.3) and the ugrani of Phajir (P.W.2) fled. Then the accused threatened the Revenue Inspector that he would kill him and burn him in the conflagaration of the house. The Potel P.W.3 tried to pacify him but the accused would not be pacified. Then he demanded Rs.2000 for the damages

caused by the demolition of the house and finally after bargaining the amount was reduced to Rs.200. It was then agreed that the Revenue Inspector should execute a pronote for Rs. 200 in favour of P.W.3 the Potel and that the Potel should pay the amount to the accused. The pronote was executed by the Revenue Inspector and it is Ex.D and the Potel produced it before the Police on 15-12-29 when the Sub-Inspector came for investigation. After the pronote was executed the Revenue Inspector (P.W.1) the Potel (P.W.3) and the Talayari (P.W.2) were allowed to leave the place. The Revenue Inspector says that the accused got a knife from inside the house and threatened to kill him if he tried to go without paying for the damages caused. And so in order to save his life he executed the pronote. By the time they went fro the house it was about 11 P.M. in the night.

4. P.W.2 is the ugrani of Phajir Shanbhogue. He went with P.W.1 to the house of the accused for removing the encroachment. After a portion of the house was removed the accused came at about 6 P.M. This witness says that when the accused was nearing the house the Kairangala Shanbhogue and his ugrani Potel of Kurnad and his ugrani/ran from the place. Then the accused threatened P.W. 1 saying that he would kill him and suck his blood. Though P.W.1 and 3 tried to pacify him he would not be pacified and demanded a receipt for Rs.2000 in respect of Saman removed from his house in his absence. After much higgling the amount was brought down to Rs.200 and the accused said that he would not allow P.W.1 to go unless he paid the amount. The potel (P.W.3) P.W.1 and the accused talked together and then the Revenue Inspector wrote the pronote and gave it to the Potel (P.W.3) Then they were all allowed to go. It was 11 P.M. in the night when all this was over.

5. P.W. 3 is the Potel of Kairangala and he has been treated as a hostile witness. I am readily unable to correctly understand the attitude of this witness. He appeared to be confused confounded and perplexed. He admits that the pronote was executed by P.W.1 but he does not know why it was written in his favour. He states that he does not know if the accused threatened P.W.1 and forced

him to execute the pronote. He says that the accused was telling that he would complain for damages for dismantling the house when there was only a woman in it. He is unable to explain why they had to remain there till 11 P.M.

6. P. W. 4 is a resident of Kairangala and his house is about 2 miles from the house of the accused. At about 7 P.M. on the day of this occurrence he was going by the side of the house of the accused and then he saw a lot of people near the house of the accused and that a portion of the house had been dismantled. The accused was asking the Revenue Inspector whether it was proper on his part to do such work and telling that he would file a complaint against him for having caused damages. He does not know if the accused, told P.W.1 that he would not allow him to go until he paid for the damages. He has been examined previously by the Sub-divisional Magistrate, Mangalore under section 512 C.P.C. and his former statement has been filed as Ex.H. He explains that the town Inspector and the Revenue Inspector asked him to depose to the facts as stated in Ex.H and also warned him. This witness has also been treated as a hostile witness.

7. This is all the evidence in the case. The accused states that he did not commit any offence, that when he came late in the night his house had been dismantled and that his wife and child were crying outside. He resented to the dismantling of the house at night time when there was no male member and when there was only a woman in the house and he asked for a report to be given to him with a view to his filing a complaint. The Revenue Inspector and the Potel asked him to go to them ~~Mangalore~~ the next morning for the report. When he went he could not find them.

8. It is quite possible that when the accused came in the evening after the portion of the house was demolished he was furious and might have been insulted them all there. It would be credible even if the case was that he assaulted and caused injury to some in the heat of the moment on sudden provocation. When he came there is no evidence that he had any arms with him. ...

then should all the persons who were there except P.W.s 1,2 and 3 run away? It is in evidence that four persons including P.W.4 came there subsequently and remained there till 11 P.M. Even P.W.2 Narayana who was not treated as a hostile witness does not say that he saw the knife in the hands of the accused. He (accused) was merely threatening and absuing. Would the P.W.1 agree to executing a pronote for mere threats and abuses expecially when there were so many persons with him? I think not. Besides the fact that there was higgling and bargaining till 11 P.M. in the night on this matter shows that the accused had cooled down. There were only the accused and his wife there and according to P.W.1 and P.W.2 there was also the brother of the accused; but this man was amenable to the P.W.1 as he was picked up by him on the way and as he actually helped P.W.1 in the removal of the window and the roof. I am unable to believe the Revenue Inspector when he says that all the people who were there did not come to his rescue when the accused was singly threatening the P.W.1. And it must be remembered that all these people remained there till 11 P.M. with the P.W.1. His story that he executed the pronote on account of threats held out to him by the accused, I am not able to believe. But then there is the pronote actually forthcoming from the Potel. It is possible that the Revenue Inspector fearing that the accused might complain against him for having demolished the house during the night time when there was only the wife of the accused dashed off his report hastily and the pronote affair was a subsequent concoction.

9. For the above reasons I find that no case is made out against the accused and I discharge him under section 253 C.P.C.

Sd/- Mallikarjuna Ayyar,
30-1-31.
Sub-divl. Magistrate.

(True copy)

Subramaniam

or Collector.

450
21.10.31

Appendix.

Witnesses examined for

Prosecution	Defence
1. M. Vasudeva Prabhu	Nil
2. Narayana	
3. Narayana Bhatta	
4. Kunha Shetty.	

Exhibits filed for

Prosecution.

A	25-4-29	Eviction order of the Revenue Divisional Officer, Mangalore.
B	25-4-29	Eviction notice to the accused.
C	25-11-29	Report of the Revenue Inspector to the Dy. Tahsildar.
C1	29-11-29	Order of the Dy. Tahsildar on Ex.C.
D	12-12-29	Pronote for Rs. 200 in favour of P.W.3 by P.W.1
E	13-12-29	Report of P.W.1 to the Station House Officer, Mangalore Town.
F	13-12-29	Letter of P.W.3 to P.W.1.
G	15-12-29	Observation yadast.
H	27-5-30	Deposition of P.W.4 recorded under section 512 C.P.C.

21-10-31.

Deposition of Witness.

(Chapter XXV, Code of Criminal Procedure)

In the Court of the Sub Divisional I Class Magistrate of Puttur Division.

Calendar .. .. Case No. 1 of 1931.

Deposition of 3rd) witness for).. Prosecution.

Name .. .. Narayana Bhatta.

Father's name .. Narayana Bhatta.

Village .. .. Kairangala.

Taluk .. .. Mangalore.

Caste .. .. Havika Brahmin.

Calling .. .. Potel.

Religion .. .. Hindu.

Age .. .. 44 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 28th day of January 1931 by clerk B.L.Rao.

I know

I am the Potail of Kairangala/P.W.1 and the accused. In 1929, December he was living at Kairangala. There were eviction proceedings against him then under the Land Encroachment Act, as he had built a house in Poramboke.P.W.1 had come there then to remove the encroachment. I had been there then. I was sent for by P.W.1. P.W.2 came to take me there. Myself, my Ugrani and P.W2 went there from my house, When I went there, P.W.1, Kairangala Shanbogue, Kurnad Potel were present there. I did not see any relation of the accused. In the house was the wife of the accused. It would be 4.30 P.M. when we reached the place. The accused was not present. My records were examined there by P.W.1. I had taken all my village registers such as the Birth and Death register etc. P.W.1 told that that house should be removed as there was an eviction order for that. P.W.1 did not ask anybody. He (P.W.1) told the wife of the accused that she should come out as the house had to be demolished. She said, that her husband

was not present and wanted to waittill he came. We waited till sunset. The accused did not turn up. Then my Talari, P.W.2 and Kurnad Ugrani began to remove the window on the western side

(At this stage the Police Sub Inspector wants to treat this witness as a hostile witness)

Cross Examination- The Inspector of Police has enquired me in connection with this case. I have not told the Inspector that Ahammad Beary, brother of the accused was then present at the scene of offence. The accused came to that place at 6.30 P.M. At that time the western wall was being dismantled. The accused abused P.W.1. I did not hear the accused threatening P.W.1 with murder. I told the accused that P.W.1 did not remove the house of his own accord but did it under the orders of his superiors, and that he did not do any wrong. As soon as the accused came the dismantling work was stopped. The accused said that he had been caused damages to the extent of Rs.200/- or Rs.300/- and that that amount should be paid to him or that he would complain.P.W.1 wrote a pro-note in my favour and gave it to me. I produced that pro-note when the Police came to me. It is Exhibit D. In that connection, I wrote this letter Exhibit F to the P.W.1 asking him to pay the amount or else he would get into trouble. I have not signed that letter. Then P.W.1 asked me to write to him what the accused would say. In accordance with that, I wrote the letter. The accused told me the next day to get the money from P.W.1. So I wrote that letter. I cannot say if I had seen the P.W.1 for the first time on that day. I did not take away any of the samans of the house nor the Revenue Inspector. The dismantling done that day was the removal of the window and the wall, removal of the roof and making gaps in the compound wall. It would be about 11 P.M. by the time when I left the place that night. At the same time there was another case of eviction against me.

Cross Examination accused Nil.

By Court. I did not ask the P.W.1 to write a promissory note in my favour. The Revenue Inspector was writing something. I did not know if it was a promissory note. I was present from 4.30 P.M. till 11 P.M. The accused was telling that he would complain for damages for dismantling the house, when there was only a woman in the house. I do not know if the accused threatened P.W.1 and forced him to write a Pro-note I do not know why the promissory note was written in my favour. I told P.W.1 not to write in my favour. The accused was abusing and then he came and was sitting in the yard. The accused told P.W.1 that he would not let him go unless he paid up the damages. Myself, P.W.1, Hasan Beary (accused) Kunha Setti, Subbagatti, Thaniaghatti, Shanbogue of Kairangala, were present till 11 P.M. We were there till then to pacify the accused.

I have been a Potel for the last 20 years. After sunset the Potel of Kurnad went away.

Sd/- Narayana Bhatta

Potel.

Taken down by me and read over to the witness in the presence of the accused and admitted by the witness to be correct

Sd/- Mallikarjuna Ayyar,
28-1-31.

Sub-divisional Magistrate.

(True Copy)

For Collector.

22.10.31.

Deposition of Witness.

In the Court of the Sub-Divisional I Class Magistrate of Puttur Division.

Calendar Case No.1 of 1931.

Deposition of 1st witness for Prosecution.

Name ..	..	M.Vasudeva Prabhu.
Father's name	..	Anantha Prabhu.
Village ..	..	Panemangalore.
Taluk ..	..	Mangalore.
Caste ..	..	Gowd Saraswat Brahmin.
Calling ..	..	Revenue Inspector.
Religion .	..	Hindu.
Age ..	..	34.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 28th day of January 1931 by clerk B.L.Rao.

I am the Revenue Inspector- Panemangalore Firka. I have been there since 16th November 1929. When I took charge there was an eviction order pending to evict the accused. This is it Ex.A dated 25th April 1929. It was signed by the Revenue Divisional Officer, Mr.Pais. The order states that I should evict him after the expiry of 60 days of the appeal or after the disposal of the appeal if one is filed. At the same time a notice dated 25th April 1929-Ex.B- was served on him. It was served on 25th May 1929 on the accused by the Shanbogue of Kairangala village. No appeal was preferred by the accused. I went to the village Kairangula on 21st November 1929 along with the Shanbogue and Ugrani of Kairangula to give effect to the eviction orders. The Potel was absent at that time. The encroachment referred to in Ex.A consists of a house and shop, a well and some cultivation all surrounded by an agalu. The encroachment was on cart track poramboke. The house was locked up and the residents were absent.

So I returned on 21st November 1929. On my return, on my way, I learnt that the wife of the accused was living with Ahamad Beary- brother of the accused. I informed her about the eviction order and asked for the accused. She said that the accused had gone to Subramania and that he would be returning in a week and that the encroachment would be removed as soon as he returns. I went again on 25th November 1929. The encroachment had not been removed. The wife of the accused asked for a fortnight's time. Even then the accused was not present. I applied on 25th November 1929 to the Deputy Tahsildar for time and wanted instructions in my report N.Dis.I.R.199/39, dated 25th November 1929. Ex.C is my report. I received the order thereon N.Ref.E.C.15/38, dated 29th November 1929 to the effect that I should remove the encroachment without loss of time. ExC-1 is the order. I went on 12th December 1929 at about 3 P.M. to execute the order. The Potel of Kurnad and his Taliyari accompanied me when I started from Kodaikal. On the way I found that Kairangala Shanbogue did not turn up as ~~requested~~ required by me. I sent the Taliari of Kurnad to fetch him and then went to the spot. On the way I picked up Ahammad Beary- the elder brother of the accused. I reached the locality at 3 P.M. The Kairangala Shanbogue and Kurnad Taliari came to the place. Then came Kairangala Potel, Phajir's Shanbogues' Ugrani Narayana and the Taliari of Kairangala Potel. I sent for Kairangala Potel through Phajir's Shanbhogues' Ugrani, Narayana whom I sent that morning. The accused's wife and child were present in the house on that day. I asked the wife of the accused and Ahammad Beary to remove the encroachment. They asked me to wait for an hour till the accused returned. I waited. The accused did not turn up. I wanted to remove the encroachment and told them that they can have the property for themselves and remove the encroachment, and that if I removed them I would auction them which would cause loss to them. Ahammad Beary said that he would remove the western window that day and the rest the next day. I consented, pro-

vided they removed the roof above the window also. He removed the window with the assistance of one Subba gatty who was present at the time. The roof was removed by Ahammad Beary. I got gaps made in the compound wall. This was between 4 and 6 P.M. We closed our work and started to go. The accused then came from the west. Swiftly and with a furiou face, entered the house through the main door- jumped out through the opening made by the removal of the window and advanced towards me. I was then in the western side of the house in the compound. He came abusing me and advancing his fist towards me, threatened me with murder and also threatened me that he would burn me in the conflagration of the house. On hearing the threats, all, except the potel of Kairangala and Ugrani, Narayana fled from the place. The accused said that I had caused damages to him by the removal of the house to the extent of Rs.2000/- and demanded a hand note for Rs.2000/- I had no amount. I tried to pacify him. The Potel also tried to pacify him on my behalf. But he would not be pacified. It was getting dark. So I came to the front side of the house. The accused came in my way and obstructed me from going, saying that nobody, specially the Revenue Inspector should leave the place unless I paid him the damages. He called for a knife and a match box and actually got the knife into his hand. On seeing this, I tried to send a note to the Deputy Tahsildar through Narayana. I gave a note to him to be taken to the Deputy Tahsildar. He went for some steps but the accused followed him a few steps and recalled him with threats, saying that by the time assistance comes he would dispose me off. The Potel intervened and consulted the accused. After prolonged negotiations the amount of damages was reduced to Rs.200/- This was demanded in cash. I had no cash. The accused asked me to execute a pro-note in favour of the Potel and said that the Potel should pay the amount to him. I executed the promissory

note as dictated by the Potel. This is the promissory note executed:- Exhibit D. Two one anna stamps are affixed to it. The Potel asked to affix the two stamps. I had stamps with me then. I handed over the note to the Potel. The Potel showed it to the accused who was all along there. I was permitted to go. The accused said that he spared me for the sake of the Potel. It was 11 P.M. in the night. I was wrongfully restrained by t the accused. I did not see the accused and the Potel of Kairangala till then. That was the first time I saw both of them. Witnesses, Thania Ghatti, Kunha Setti. Ismail Beari were also present at the time. I halted at Kodaikal that night. The next afternoon, I went to Bantwal and reported this occurrence to the Deputy Tahsildar, Bantwal. He asked me to file a complaint before the Station House Officer, Mangalore Taluk Station. On 13th December 1929, I went to Mangalore and filed a written complaint Ex.E. The Police came to investigate on 15th December 1929. The Potel produced the promissory note ~~executed~~ Ex. D., before the Police. On that day I received the letter Ex.F from the Kairangala Potel asking me to pay the amount within 15 days and that otherwise I would come into trouble. That letter is dated 13th December 1929, but it is not signed by the Potel. I immediately handed over that letter to Sub-Inspector, Sadasiva Rao. The Sub-Inspector inspected that plot and has prepared an observation yadast Exhibit G. I have signed it. When the Police inspected the place on 15th December 1929, the Police found bare walls, and the encroachment had been removed.

Cross Examination - Nil.

By Court. At about sunset time, Thania Ghatti, Kunha Setti and Ismail Beary came there one by one. I subsequently learnt Thania Ghatti and Ismail Baary were sent by Kairangala Shanbogue for my assistance. Kunha Setti was returning home. I thought if I ran away the accused would chase me. The Kairangala Potel and the Ugrani did not come to my help when the

accused threatened to kill me. I had time to write a note to the Deputy Tahsildar. When I was writing my note, the accused continued abusing, being close at hand. Kunha Setti, Ismail Beary and Thania Ghatti came there after the others ran away and remained there till 11 P.M. With the accused there was his brother Ahammad Beary and his wife. There were no others to help him. They all took part merely in negotiations. They adviced the accused, but they did not warn him. But on the other hand, they all advised me to consent to his demand and that otherwise my life would be in danger.

Sd/-M.Vasudeva Prabhu,

Revenue Inspector.

Taken down by me and read over to the witness in the presence of the accused and admitted by the witness to be correct.

Sd/- Mallikarjuna Ayyar,

Sub-divisional Magistrate.

(True Copy)

For Collector.

22.10.31

Copy of charge framed against Narayana Bhatta, Patel of Kairangala Village and his explanation dated 10th March 1931.

****

Ref.No.1058-31-A.

The following charge is framed against Narayana Bhatta, Patel of Kairangala Village:

Charge:

The patel of Kairangala - Narayana Bhatta - has either abetted the alleged extortion or the subsequent creation of the pronote referred to in the judgment in O.C.No.1/1931 on the file of the Sub-Divl.Magistrate, Puttur.

He should show cause within one week why he should not be removed from office for his misconduct.

Sd/R.Subrahmania Ayyar,
6-3-1931.
Revenue Divisional Officer.

/True copy/

Explanation of Narayana Bhatta:

[illegible]

/True Copy/

Note.

For a translation of this kagda please see page 18 of this office file D Dis 1058-31 enclosed.

11/4/31.

Ref.No.1058-31-A.

The following charge is framed against M. Vasudeva Prabhu Revenue Inspector, Panemangalore.

C H A R G E:

In Cal.Case No.1/1931 on the file of the Sub-Divisional Magistrate, Puttur, the Sub-Divisional Magistrate, Puttur has arrived at the conclusion that there was no extortion in this case as deposed to by the Revenue Inspector and that the pro-note affair was a subsequent concoction.

The Revenue Inspector should explain by 15-3-1931 why he should not be punished for his misconduct.

Sd/R.Subrahmania Ayyar,
6-3-1931.
Revenue Divisional Officer.

/True copy/

(ii)

Explanation of the Revenue Inspector, Panemangalore dated 10-3-31 (M. Vasudeva Prabhu), to the Rev.Divl.Officer,

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In obedience to your order Ref.No.1058-31-A, dated 6-3-31 calling upon me to explain why I should not be punished in view of the conclusion of the Sub-Divl.Magistrate, Puttur that there was no extortion in the complaint filed by me against Asana Bava in C.C.No.1/1931 on his file and that the pronote affair was a mere concoction, I beg to submit as follows:-

2. The case is a true case and its fact have been clearly set forth in my report dated 13-12-30 to the Dy.Tahsildar of Puttur and also in the complaint (Exhibit E) submitted within 24 hours of the occurrence and there was no reason whatever for anybody to suspect that the pronote affair was an after-thought and that the evidence in that respect was fabricated with a view to give colour to the charge of extortion. It is in evidence that I was forced by the accused under threat to execute the note for Rs 200/- on account of the so called damages caused to his building by removal of a portion thereof. A perusal of the statement of the several witnesses recorded by the Police during their investigation and others subsequently, will fully convince you that I was wrongfully restrained by the accused from moving from the place of offence unless he is sufficiently remunerated for the damages, though these statements have subsequently been retracted by the witnesses before the Sub-Divl. Magistrate. Even Thania Gatti and Kinhi Shetty who were declared to be treated as hostile during the enquiry on account of their suspected partisonship with the accused have clearly stated in their statement under Sec.342 that the note was executed

deviated from the truth and changed the form of the injury threatened to me from one of death to that of proceedings against me for --- damages. I need hardly submit in this connection as it is within your vast experience that even a mere threat of accusation or -- even a mere threat (whether the person threatened is guilty or not) of a judicial proceedings against an individual and thereby caus--ing illegal loss to him comes under the term extortion, as defined in the Indian Penal Code. The evidence of P.W.-2, the Ugrani Narayana is clear enough to show that I was put under restraint or fear of restraint by the accused and I was threatened with death if he is not remunerated for the loss. From the very beginning I had grave suspicion that the Potel of Kairangala who posed him--self to be a mediator between myself and the accused, was the -- arch mover in the case, and subsequently this suspicion was confirmed by his subsequent conduct in holding out or communicating threats to me by an unsigned letter which has been exhibited (as Exhibit F) in the case. A kind perusal of the judgment of the Sub-Divl.Magistrate would fully convince you about the conduct of the potel. He first admitted the execution of the note on the spot under threat before the Sub-Inspector, but in his statement before the Sub-Divl.Magis--trate during the enquiry, he prevaricated and changed his statement by avering that I had executed the note for fear of being proceeded against for damages. But all the same he could not explain why the matter was delayed till 11 P.M. that night. The Potel is in the same boat with the accused in as much as he has also enrroached upon Government land and the proceedings are still pending and he thought that he could strengthen his hands if he should side with the accused.

It will not be out of place here to state that all the per--sons , that were present there at the time of the commission of the offence, were all those interested either in the accused or the potel who is for all outward appearance an influential man in the village and nobody would come forward to assist me, contrary to the wishes of the potel. P.W.-4 Kunhi Shetty is the tenant of the accused's nephew. I therefore fail to understand how I can adduce independent evidence before the Sub-Divl.Magistrate to prove the charge against the accused. I had therefore to depend on the evidence which would come forward in spite of the coercion of the accused and the potel. The accused is of a notorious character and insolvent, patronised by rich Bunts for mischeif in the villages and every witness though --- fully cognizant of the case would be afraid of the accused to give the bear truth.

Moreover I beg to state that after a lengthy enquiry the --- Police were fully satisfied that there was clear extortion on the -- part of the accused and that the note was got executed by him from me on the spot. I therefore submit that I cannot be held responsible for the prevaricated statements of the eye-witnesses in the Sub-Divl. Magistrate's Court. The charge of preferring a false complaint now brought against me is not there fore, I submit, sustainable under the circumstances. There is no blot on my conduct till now, since the commencement of my service in 1919. I therefore submit that I may be exhonorated.

Sd/M.Vasudeva Prabhu,
16-4-1931.
Revenue Inspector, Manemangalore.
/True copy/

DEPOSITION OF WITNESS.

(Chapter XXV, Code of Criminal Procedure).

In the Court of Sub Divisional 1 Class Magistrate, Mangalore.

Calendar	Case No.21 of 1930.
Deposition of 1st witness for	Prosecution.
Name	Vasudeva Prabhu.
Father's name	Anantha Prabhu.
Village	Panemangalore.
Taluk	Mangalore.
Caste	Gowd Saraswat Brahmin.
Calling	Revenue Inspector, Panemangalore.
Religion	Hindu.
Age	34

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 27th day of October 1930.

I have been Revenue Inspector of Panemangalore firka from 15th November 1929. An eviction order under the Land encroachment Act was pending execution in Mairangala when I took charge. This is the order Exhibit A. It is directed against the accused Kilar Hasane Beary the encroacher. On 21-11-1929 I went to the village to execute the order. The encroachment consisted of a house and shop with a well and compound wall erected on a cart track poramboke. The accused was absent and the house was locked at the time of my first visit. His wife who was living in the neighbourhood told me that she would get the encroachment removed as soon as her husband returned. I went there again on 25-11-1929. The house was again found to be locked and the encroachment had not been removed. His wife requested me to allow her 15 days time. The eviction order is dated 25-4-1929. The eviction notice was served on the accused on 25-5-1929. This is the copy of the notice served on the encroacher Exhibit A.

is the report I sent to the Deputy Tahsildar, Buntwal on 25-11-1929 to the effect that the encroachment had not been removed and asking for a month time for the removal, Ex.C. The Deputy Tahsildar ordered me to remove the encroachment without delay. This is his endorsement Ex.C1. I went again to the village on 12-12-1929. I took with me Kurnad Potel and Hammade Beary elder brother of the accused. After I reached the spot, the potel of Kairangala Narayana Bhat, the Shanbhogue of the village - M. Krishna Rao, the Kairangala talayari, Kurnad talayari, and Fajir ugrani joined me there. It was about 3 O'clock in the evening. The encroacher was absent and I was requested to wait for an hour till the encroacher returned. Hammade Beary requested me to wait; As the accused did not turn up till 4 O'clock I decided to remove the encroachment that day. I asked Hammade Beary and the wife of the accused to leave the building. They said that they would remove a portion of the building that day and remove the remaining portion the next day. They consented to remove the window and the roof above it on the western side of the house. They removed the window and called for assistance for removing the roof. Fajir ugrani and Kurnad talayari assisted Hammad Beary in removing the roof. I cut open the compound wall here and there with the help of Kairangala talayari. It was then about sunset and we closed our work for the day. Just then the accused came from the west entered his house and came out of the window opening. He came to me abusing me. He demanded damages from me. He said he would kill me and burn me there. Myself and the potail of Kairangala tried to pacify him but we could not We moved to the front side of the house. The accused said that no one should leave the place and coming in front of me he said that the Revenue Inspector should not leave the place. He called for a match box and a knife. He went inside and brought a knife. He was biting his lips and saying that he would murder me. He demanded from me a sum of Rs.2000/- as damages to his building. The Kairangala potail intervened and brought down the demand to Rs.200/-. As I had no cash with me the

accused demanded a pro-note for Rs.200/- in the name of the potail. He said that unless I executed the pro-note he would not let me go and that he would kill me on the spot. The accused said that the potail should collect the amount and pay it to him. I said I would pay the amount without executi a pro-note but the accused would not accept it. As my positi was unsafe and as it was getting late I executed a pro-note fo Rs.200/- in favour of the potail as demanded by the accused. This is the pro-note Ex.D. It is in my hand-writing. I handed it to the potail and on the potail showing it to the accused I was permitted to go away. It was 11 P.M. then. When the accused rushed towards me abusing me and threatening to kill me all the village officers and their menials fled except Kairangala potail and Fajir Shanbhogue's ugrani. It was so early as 6 P.M. One Kunhi Shetti of Kairangala came to the scene at about 6 P.M. soon after the accused came. A little later one Tania/hatty came there. These two persons were present when I executed the pro-note. The next day I went to Buntwal and reported the matter to the Deputy Tahsildar He directed me to prefer a complaint before the Station House Officer, Mangalore. I went to Mangalore and preferred a complaint at the Mangalore Taluk Station. Ex.L is my statement t the Police. I did not know the potail of Kairangala before 12-12-1929. I met him for the first time that day. On 15-12-1929 I got a letter from Kairangala potail. My peon Fakira brought it to me from the potail. This is the letter Ex.E. The letter was to the effect that I would get into trouble if I did not make the payment within 15 days. The potail has not signed it.

Cross-examination.

I have been a Revenue Inspector for 2 years and 4 months I left Kurnad (Kodekal) at about 2 P.M. and reached the place of encroachment at Kairangala at 3 P.M. The Shanbhogue of Balepuni came there 10 or 15 minutes after I reached the place. The Kairangala potail came subsequently from another direction. I did not see the Revenue Divisional Officer actually signing the Exs.A & B. But I know his signature. I did not see the

accused sign Ex.B in token of the service. It was to remove the encroachment that I went to Kairangala that day. I did not anticipate trouble. I did not take knives or pickaxes. I arranged for the presence of Kurnad potail as the Kairangala potail was absent on a former occasion when I visited the village. I had sent for the Kairangala potail in the morning. I picked Hammade Beary on my way to the place of encroachment. The wife of the accused was alone in the house. I was told that her baby was ill. I spoke to her through Hammade Beary. I cannot say if she was willing to vacate the house. She went out to the back verandah. I was told that her husband had gone to bring medicine for the sick child. Between 4 P.M and 6 P.M. we were engaged in dismantling a portion of the house. I do not know if I am competent to remove an encroachment in the night. The village menials had just stopped removing the encroachment when the accused came on the scene. The Kairangala potail's talayari brought the implements. I do not know from where. I asked the potail to get the implements. One Subbaghatty was present there at the time. We were 7 Government servants and one Subbaghatty. This man did not help us. He helped Hammade Beary in removing the window. I had not seen the accused before that date. He does not know me. I do not know if he spoke to any one in the house before he came up to me. The accused said "Which Revenue Inspector dismantled my house in my absence? Is he a dog or son of a harlot?" Myself and the Kairangala potail stood in one place. The other 5 were a little away from me. Including myself the potails and talayaris we were seven. The accused made me out as the Revenue Inspector and rushed towards me showing his fist. His threats were directed to me only. The moment the accused began to abuse me and threatened to kill me all fled away - Kurnad Potail Balepuni Shanbhogue - Kurnad Talayari and Kairangala Talayari. I was afraid that the accused might harm me. I did not run away as I could not and also should not run away. I did not see Subbaghatty at the time. I thought that the accused was

serious when he threatened to kill me and suck my blood. I had no chance to run away when the accused stepped inside to fetch a knife as he returned immediately. Tania Shatty and Kunha Shetty were present when the accused threatened me. They did not do anything to help me. I asked some one - I can't say if it was Tania Shatty or any other person to inform my peon at Kodekal and take him to the Deputy Tahsildar. I whispered the message. The person to whom I applied refused help. The Fajir ugrani went about 10 yards with my note to the Deputy Tahsildar but the accused pursued him and stopped him. I was then sitting on a chair. I did not shout for help. At about 10.45 in the night the execution of the pro-note was talked of. I did not permit the Kairangala potail to go away. I asked him to stay with me though the accused asked him to go away leaving me in his charge. I did not tell the potail to go away. The fellows who ran away did not return except Kairangala Talayari whom I saw there later. I cannot say without reference to Ex.E if I told the Police that the accused demanded damages for Rs.2000. I asked the potail to negotiate in the matter and reduce the amount. It was the accused who suggested my executing a pro-note in favour of the potail. This was after some negotiation by the potail. I did not readily consent. I asked the potail to stand surety for my payment without a pro-note but the accused would not agree. The accused did not at any time suggest that the pro-note should be in his favour. The arrangement was that I should pay the money to the potail and the potail should pay it to the accused. Whether it was to be paid after collection or before collection I am not sure. I executed the pro-note Ex.D as a way of escape. I was aware that I must pay the amount having executed the pro-note and it was to avoid payment that I filed the complaint. I thought that the potail would ensure payment. The accused was satisfied with the oral promise of the potail that he would pay the amount. The accused also said that for the sake of the potail he spared my life.

did not see the potail delivering Ex.D or endorsing it to the accused. To my knowledge the accused did not ask for it. I had stamps in my pocket. I generally have some postage stamps with me. When the potail was asking for stamps I volunteered to give the stamps to save delay. After executing the pro-note, I took the potail with me for a few yards. I did not ask the potail to return the pronote to me. I did not ask the potail to send a report about this crime at once. It was on 13-12-1929 afternoon at about 3.30 or 4 that I gave a report to the Deputy Tahsildar at Buntwal. Kairangala is about 16 miles from Buntwal. There is no bus service straight from Kairangala. There is bus service from Feringapet which is 8 or 9 miles from Kairangala. I was present when the potail produced the pro-note before the Police Sub Inspector. I do not think that there was any search warrant. I do not know whose handwriting this is Ex.F. The previous night I had asked the potail to go to Kodekal the next morning so that I could take him to the Deputy Tahsildar to represent the whole affair to him. I did not mention the names of Thania Ghatty, Subba Ghatty and Ismail Beary and Kunhi Shetty in my complaint to the Police as I did not know their names then and as I did not know how to draft the complaint.

By Court.

Ex.E is a copy of the report I gave to the Deputy Tahsildar.

M. Vasudeva Prabhu,
27-10-1930.
Revenue Inspector.

Read over to the deponent in English and admitted by him to be correct.

R. Subrahmanya Ayyar,
27-10-1930,
Sub Divisional Magistrate.

True Copy.

For Collector.

22/10-31.

M.D'S.16/10.

DEPOSITION OF WITNESS.

(Chapter XXV, Code of Criminal Procedure).

In the Court of Sub Divisional I Class Magistrate, Mangalore.

Calendar	Case No.21 of 1930.
Deposition of 2nd witness for	Prosecution.
Name	Narayana Bhatta.
Father's name	Narayana Bhatta.
Village	Kairangala.
Taluk	Mangalore.
Caste	Havik Brahmin.
Calling	Potail of Kairangala.
Religion	Hindu.
Age	42

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 27th day of October 1930.

I am the potail of Kairangala. I know the accused. He was living in the village. I know there was some eviction proceedings pending against him under the Land Encroachment Act. It was in respect of a house erected by him on a pathway. Last December-one-day I do not remember the date, I went to the house of the accused at the instance of the Revenue Inspector P.W.1 who had sent word to me. Myself, my ugrani Naranu and Fajir ugrani Narayana went there. The Revenue Inspector and Balepuni Shanbhogue K. Krishna Rao were already there as well as the Kurnad potail. The Revenue Inspector told me that he had orders to remove the encroachment and that he had come for that purpose. The wife of the accused was in his house. I did not see his brother. Hasana Beary's wife said that she could not vacate the building in the absence of her husband. The Revenue Inspector said that he could not postpone execution. The Revenue Inspector directed the ugranis to dismantle a portion of the house in the west by removing the window and roof. He asked another to cut the compound wall. While 2 persons were cutting the wall the accused returned. It

was about sunset, He said it was improper for the Revenue Inspector to dismantle his house when there was only a woman and rebuked him for his action. He said that he had suffere damages on account of the Revenue Inspector's action and that he would file a suit against him. He questioned the wisdom of the authorities who appointed P.W.1 as Revenue Inspector. Myself and Balepuni Shanbhogue pacified the accused. The Revenue Inspector wrote out something in front of the house o the accused and gave it to me. When I saw it, it was a pro-note executed in my favour. I asked him why he executed it and said I did not want it. The Revenue Inspector said that he wrote it as the accused threatened to file a suit against him and wanted me to pacify him. I said that the pro-note was not necessary to pacify him. The Revenue Inspector ask me to retain the pronote and see that the accused did not fi a suit against him. The Revenue Inspector also asked me to send me a letter the next day as to what the accused propose to do. When the Police enquired me I produced the pro-note This is the pro-note Exhibit D. I see Exhibit F. This is the letter I sent to the Revenue Inspector. I do not remember what I wrote. It is in my handwriting. I have now read it. The accused told me the next day that he should get the money and I wrote accordingly. He said that the Revenue Inspector must pay for his damages but he did not specify any amount.

(This witness is treated as hostile at this stage and he is allowed to be cross-examined).

I did not suggest the execution of the pro-note by P.W.1. The accused did not ask for it. The accused did not threaten to kill the Revenue Inspector or otherwise harm him. There was another case of eviction against me pending execution at the same time.

Cross-examination by accused.

It was night when P.W.1 and the ugranis were engaged in evicting the encroachment. Balepuni Shanbhogue was present when the Revenue Inspector handed the pro-note to me. I saw Subbaghatty at some distance. I did not notice any

others in particular.

By Court.

The ugranis were engaged in cutting the wall when the accused came. It was after sunset and it was getting dark.

Taken down by me. Interpreted to the witness in Canarese and admitted by him to be correct.

Sd/- R. Subrahmanya Ayyar,
27-10-1930,
Sub Divisional Magistrate.

True Copy.

Subrahmanyam
for Collector.
22.10.31.

M.D'S.16/10.

Deposition of witness.

In the Court of the Sub-divisional I Class Magistrate, Mangalore.

Calendar case No.21 of 1930.

Deposition of I witness for Prosecution.

Name	...	K. Vasudeva Prabhu.
Father's name	...	Ananthe Prabhu.
Village	...	
Taluk	...	Mangalore.
Caste	...	Gowd Saraswath Brahmin.
Calling	...	Revenue Inspector, Panemangalore.
Religion	...	Hindu.
Age.		33 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 27th day of May 1930 by Balakrishna.

Evidence recorded under section 512 Cr.P.C.

I have been the Revenue Inspector of Panemangalore firka since 16-11-29. When I took charge an eviction order under Section 6 (2) of the land encroachment Act Ex.A was pending execution. The eviction order was dated 25-4-29 and it stated that it should be executed after the expiry of 15 days mentioned in the notice under Section 6 (1, dated 25-4-29 and also from the expiry of the appeal time from that date if no appeal was filed. If an appeal was filed after the appeal was disposed of. The notice to execute it under section 6 (1) was served on the accused on 26-5-29. No appeal was filed by the accused and he did not remove the encroachment as per notice under section 6 (1) of the Act - marked Ex.B. I went to the village to execute the warrant on 21-11-29. I found the house which was on the encroached plot locked. The Potail of the village was absent; there were no residents in the neighbourhood; so I returned that day and on my way back I learnt that the encroacher's 'i.e. the accused's' wife

was residing with the encroacher's elder brother Hammade Beari. I informed her about the order and enquired about her husband. She represented that her husband had gone to Subramaniam, she would get the encroachment removed within a week as he would return soon. Again on 25-11-29 while going to Naringana I inspected the plot. The encrachment had not been removed and the house was also locked and the accused's wife asked for a fortnight's time. I submitted my report I.R.No. 199/39 dated 25-11-29 Ex.C to the Deputy Tahsildar. I received order N.Ref.E.C.15/38 dated 29-11-29 to execute the eviction order without loss of time. I went to the locality on 12-12-29 at about 3 P.M. Kurnad Potail, the accused's elder brother Hammade Beari, were with me. After I reached the place. Kurnad Talayari with the Balepuni Shanbhogue, Kairangala Potail Talayari and Phajir Shanbhogue's Ugrani.P.W. Narayana Bhatta, his came there. I told the accused's brother to remove the encroachment or that I would remove it. The accused's wife was in the house. She was also informed. They asked me to wait for an hour saying that the accused would return by that time. I waited for one hour. The encroacher i.e. the accused did not turn up. I told them that I would wait no more and asked the accused's wife to quit the house. I told her and Hammade Beari that they could remove the things in the house as a special case if they were prepared to remove the encroachment. Hammade Beari said that they would remove the western window immediately and remove the rest of the encroachment the next day. I agreed to the proposal on the condition that they should remove the western portion of the roof just above that window. Hammade Beari agreed and he removed the window with the help of one Subba Gatti. After that Hammade Beari removed the western roof with the help of the ugranis. The accused had encroached upon land registered as poramboke cart track by enclosing it with an agalu, constructing a house in it and sinking a well and cultivating the rest of the plot. By that time I got gaps made in the agalu by the Kairangala talayari. It was nearing sunset and we closed our work for the day. At this time

he accused came swiftly along the road with a furious face. e entered the house by the main door and jumped out by the pening made by the removal of the window. He removed his hirt and came towards me abusing me and saying that he ould murder me, suck my blood and burn me with the materials f the house. All the persons that were with me excepting he Kairangala Potail and Phajir Shanbhogue's ugrani away. he Potail and myself tried to pacify the accused. He would ot be pacified. He said that I had removed from his house hi amans worth Rs. 2000 during his absence and unless this mount was made good he would not allow me to leave the place ut that he would kill me and burn me there. One Kunha Shetty rrived there just at the time the accused arrived. [illegible].Thania atti came a little later. I tried to pacify the accused by elling him that it was his brother who had removed the ncroachment to save his property. It was dusk by that time nd I went to the front side of the house. He came to my ront and obstructed me saying that no one expecially the evenue Inspector should leave the place. He called for a nife and a match box and threatened instant death biting his eeth at the same time. He had actually a drawn knife in his and. I tried to send a note to the Dy. Tahsildar and get ecessary aid. No one consented to take the note. I gave a ote secretly to the Phajir ugrani who was present and when he oved about ten yards from me towards the east he was called back by the accused and asked to stay where he was, stating that by the time assistance came I would be disposed of. The Potail advised me for negotiations and secured some terms for the execution of a pronote for Rs.200. The accused demanded cash but as I had no cash the accused asked that I should execute the pronote in the name of the Potail and that the Potail should give him the money. The accused stated that he consented for Rs.200 only for the sake of the Potail and

that the proper punishment for me was my disposal by him. I executed the pronote to escape from the difficulty and delivered it to the Potail who showed it to the accused who permitted me to go. Ex.D is the pronote. If I had not executed it the accused would have killed me. I left the spot at 11 P.M. Till then I was detained there by the accused. I reached Buntwal the next day and submitted a report to the Dy. Tahsildar and he directed me to file a complaint before the Police. I came to Mangalore and filed the complaint Ex.E before the Station House Officer.

Sd/- M. Vasudeva Prabhu.
Revenue Inspector.

Taken down by me and read over to the witness in the presence of the accused and admitted by the witness to be correct.

Sd/- M.S.Pais,
27-5-30,
Sub-divisional Magistrate.

(True copy)

Mahmad

for Collector.

21-10-31.

DEPOSITION OF WITNESS.

(Chapter XXV, Code of Criminal Procedure)

In the Court of the Sub-Divisional I Class Magistrate, Mangalore

Calendar .. .. case No.21 of 1930.

Deposition of 4 witness for prosecution.

Name	...	...	Thania Gatti.
Father's name	...	...	Ambady.
Village	...	...	Balepuny.
Taluk	...	...	Mangalore.
Caste	...	...	Gatty.
Calling	...	...	Cultivator.
Religion	...	...	Hindu.
Age	...	...	35.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 27th day of May 1930 by Balkrishna.

****

I know P.W.1 and the accused Hassane Beari. My house is about three furlongs from the house of the accused which is close to the road. About more than five months ago at about dusk the Shanbhogue of Balepuni told me that words being exchanged between P.W.1 and the accused near the latter's house and asked me to go there and see what the matter was. P.W. Ismali Beari, a neighbour of mine and myself went there. The accused was threatening P.W.1 that he, P.W.1 had caused loss to him and that the accused would not allow him to go away unless tha damages were paid and if he went away the accused would burn him inside the house. The potail and P.W.1 talked for some time and P.W.1 wrote something. I do not know what he wrote but from their talk I opined that P.W.1 wrote something for the damages caused. P.W.1 gave what he wrote to the potail. Then we went away. It was

about 10.30 P.M. then.

Left thum impression of Thania Gatty.

Taken down by me and inerpreted to the witness in Tulu in the presence of the accused and admitted by the witness to be correct.

Sd/- M. S. Pais,
27-5-30.
Sub_Divisional Magistrate

(True Copy)

3/L

For Collector.

3-11-31.

DEPOSITION OF WITNESS.

(Chapter XIV, Code of Criminal Procedure).

In the Court of Sub Divisional 1st Class Magistrate, Mangalore.

*****

Calendar.	Case No.21 of 1930.
Deposition of 3 Witness for	Prosecution.
Name:	Munka Shetty.
Father's name:	Thyampa Shetty.
Village:	Balepuni.
Taluk:	Mangalore.
Caste:	Bunt.
Calling:	Cultivation.
Religion:	Hindu.
Age:	23.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 27th day of May 1930 by Balakrishna.

I know P...1 and Hassane Beari the accused in this case. I know the house constructed by him by the side of the cartroad. That house is about 1½ miles from my house. About 5 or 6 months ago at about dusk when I was going to my house from Balepuni I saw P...1 Kadiangala Potail, P...2 and others near the accused's house. The roof of the western portion of the house and a window had been pulled down. I was on the road. At that time the accused came from the west and entered into the house and went out through the opening made by the removal of the window. ... He jumped out the Balepuni Sanchigade, Potail and some others ran away. The accused went near P...1 and abused him. He said he had been made to lose property worth about Rs.... and that he would not allow P...1 to go away unless he was paid damages to that extent and if he attempted to go away he would kill him. They then came to the front side of the house. The Potail and the accused talked for some time ... to write something. I do not know what he wrote. ... He wrote to the Potail. The Potail and ... ...

... - Munka Shetty.

Taken down by me and interpreted to the witness in Tulu in the presence of the accused and admitted by the witness to be correct.

Sd/- M. S. Pais,
27-5-1930,
Sub Divisional Magistrate.

True Copy.

For Collector.

3/11

M.D'S.30/10.

DEPOSITION OF WITNESS.

In the Court of the Sub-divisional I Class Magistrate, Mangalor

Calendar Case No. 21 of 1930.

Deposition of 2 witness for Prosecution.

Name	...	Narayana.
Father's name	...	Manjunatha.
Village	...	Phajir.
Taluk	...	Mangalore.
Caste	...	Koteyar.
Calling	...	Ugrani of Fajir Shanbhogue.
Religion	...	Hindu.
Age	...	42

Solemnly affirmed in accordance with the provisions of Act of 1873 on the 27th day of May 1930 by Balakrishna.

I am the ugrani of Phajir Shanbhogue. I had accompanied the Revenue Inspector, P.W.1 to Kairangala village on 12-12-29 to remove encroachment made by Melare Hassane Beari the accused in this case. P.W.1 had asked me to fetch the Kairangala Kotail to the plot encroached upon. I brought the Kotail to spot. P.W.1 and others were there. The accused was not there but his wife was in the house and the accused's brother Hammade Beari was outside. P.W.1 asked Hammade Beari to remove the encroachment He asked for a day's time. P.W.1 said that time had been granted on the previous occasion and no time could be granted. Hammade then said that the accused would return soon and that we should wait for a while. We waited for some time. The accused did not come. P.W.1 then told Hammade Beari that if the material of the house were removed by them they would get them and that if they were removed by us they would be auctioned. He agreed and removed a window of the house on the western side and with my and Kurnad ugrani's help removed the western portion of the roof. P.W.1 got gaps made in the agalu by the Kairangala ugrani. It was about 6 P.M. then. When we were about to go away the

accused came there furiously entered into the house and jumped out through the opening made by the removal of the window and proceeded towards P.W.1 abusing him. He said that he would suck P.W.1's blood after stabbing him that his articles worth Rs. 2000 had been removed and that the Revenue Inspector should give him a receipt for these articles and that otherwise he would not allow him to go away and that if the Revenue Inspector attempted to go away he would kill him and burn him in the house. The Potail tried to pacify him and the Revenue Inspector pacified him but he would not be pacified. He demanded damages to the extent of Rs.2000. Finally the damages were fixed at Rs. 200 and it was decided that P.W.1 should execute a pronote in favour of the Potail for that amount and that the Potail should pay the accused Rs. 200. P.W.1 accordingly executed the pronote and gave it to the Potail who showed it to the accused. It was 11 P.M. then and all of us went away. From the time the accused arrived till P.W.1 executed the pronote the accused could not allow him to go away.

Sd/ - Narayana

Taken down by me and read over to the witness in Canarese in the presence of the accused and admitted by the witness to be correct.

Sd/- M. S. Pais,
27-5-30,
Sub-divisional Magistrate.

(True copy)

3/4.

For Collector.

3-11-31

Subject.

R. F. XXII-A-19—30,004—2-2-31.(6)

FOR MEMBER. V·O·S - (South Kanara) - Mangalore Tk - Kairangala - Headman - Suspension - Narain Bhatta - Revision Petition.

READ AGAIN B. P. No. _____ ,dated _____ 193

" " " _____ , " _____ 193

READ ALSO :--

Register No. _____. From the A. 2082/31 pp No. 1-11 C, dated 9 193

A. 3101/31 pp 29-32 C.J Q

" " _____, " " _____, _____ 193

" " _____, " " _____ " " _____, " _____ 193

RESOLUTION. Refer No. A. 2082/31/2 dated 9 26-11-31 193

The Board has examined the records. The petitioner has ~~failed to~~ w/ Satisfaction explained why the promote was executed in his favour. His conduct in sending a warning letter to the Rev. Inspector the next day demanding early payment of the amount was in keeping with his conduct the previous night and there is strong suspicion on his bona fides. The Board ~~also~~ observes that the fact that the accused is absconding

I [illegible] CD
[illegible]
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27/11

I 9 4-1-32
CS 4-1-32

probably with the connivance of the petitioner indicates that both are afraid of the retrial. The Board finds that the petitioner is guilty of grave misconduct in helping Hasane Beary against the Rev. Inspector. The punishment of two years suspension awarded by the Rev. Civil Officer is not adequate. The Board proposes to enhance it to one of dismissal. The Collect is requested to call upon the petitioner to show cause in writing within one month why he should not be dismissed and to submit his remarks. ~~Submit the explanation of the petitioner with his remarks~~

KB 26-11-31.

19.11.31

KB. 25/11/31

25/11/31.

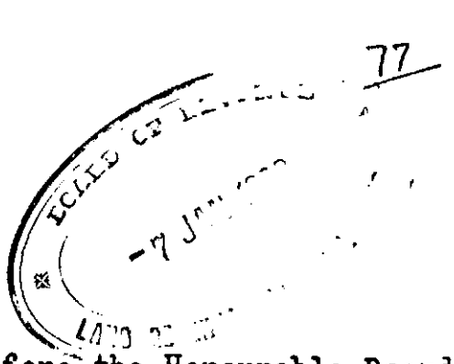
To

The Collector of South Kanara

Sone 26.11.31

24.11.

P.S.L. 27/11



RJ.464
A91

Before the Honourable Board of Revenue, M a d r a s.

Ref: The Honourable Board's reference A No. 2082 - 31, dated 26-11-1931 - regarding village Officer's (South Kanara) - Mangalore Taluk - Kairangala village - Headman Narayan Bhat - Directing him in a notice to show cause in writing within one month why he should not be dismissed - Explanation submitted.

Honoured Sir,

I, Naraina Bhatta, Potail of Kariangala village, your Honour's most humble and obedient servant, with reference to the above Honourable Board's notice, beg to submit the following few lines and pass favourable orders.

(1) The subject matter of the whole case in which I am called upon to show cause why a punishment of suspension should not be enhanced to that of dismissal is among the following issues that raised the Honourable Board of Revenue the suspicion of grave misconduct on me.

(a) Regarding the removal of encroachment made by the accused Hassane Beary in C. C. No.1/31 of the Sub Divisional Magistrate - Puttur by the Revenue Inspector.

(b) Execution of demand promissory note(Ex.D) in C.C.No.1/31 of the Sub divisional Magistrate of Puttur by P.W.1, the Revenue Inspector in the said Criminal case against

the accused before that Court.

(c) Regarding the production of the demand pro-note before the Police.

p. 36 C7

(d) The final orders passed by the Sub Divisional Magistrate, Puttur in C.C.No.1/31 on his file.

p. 38 C7

(e) Suo-moto proceedings passed by the District Magistrate against the decission of the Sub Divisional Magistrate of Puttur in C.C.No.1/31.

pp 80-81 (E)

I am the village Headman governing by the village officers hereditary right from time immemorial in my family and it is, I must humbly submit, the duty of the village Headman to submit to the command and orders from the lowest to the superior grade officers in ~~the~~ all the Government departments whenever they happen to set their foot in the village according to the village officer's Manual prescribed for village officers. Further it is the duty of the village Headman to render all sorts of help to the officers including revenue, police, magisterial, sanitation, forest and Abkari etc whenever they demand such help from the village Headman no sooner they ~~can~~ camp village. Hence I must humbly beg to submit my answers to the above issues that will remove the suspicion of grave misconduct either to suspend me or remove me by way of dismissal from my village Office which having been held from time immemorial.

Not put up

(a) to (e) on pp 77-79 C7

Regarding issue (a) above in para 1, I most

^^ p 77 C7

humbly beg to submit that the Revenue Inspector who is well versed in his official duty and the responsible immediate superior of the (~~views~~) village officers could not have gone to the extent of putting extortion to a village headman like me being an immediate subordinate to him in unnecessary affairs out of law to (~~acquit~~) evict Hasane Beari from the Land encroachment. The law was open to him either to get the police armed aid or to file a criminal prosecution against him, (Hasane Beari), the accused to oust him from the encroachment. The Revenue Inspector had not reported against (~~him~~) me regarding my misconduct in these affairs.

pp 77-79 Regarding issue (b) I most humbly beg to submit that the Revenue Inspector, Vasudeva Prabhu qualified for the Revenue Inspector's post could not have executed the pronote in favour of the accused Hasane Beari in the above case and handed it over to me, being the immediate subordinate to the Revenue Inspector, I could not disobey but obey to any risk to the order of the Revenue Inspector, the village headman generally being at mercy in the hands of the Revenue Inspector. It was clearly open to the Revenue Inspector to report about the affair and not a village headman like me having only an experience of the village adminstration according to the orders of the superiors.

p 79 Regarding issue (c) it is humbly submitted that I cannot be held responsible for handing over the pronote to the police when they demanded to avoid sheer injustice.

p 79 Regarding Issue (d) The sub divisional magistrate of Puttur who was the first enquiry-officer in judicial

capacity and the enquiry being fresh then, at the outset, found himself right that the Revenue Inspector had crossed beyond the boundary of law that allowed him in his official capacity (10) & discharged the accused.

p 79 cr Regarding Issue (e) The suo-motto trials and belated enquiry and the different opinions of the judicial officers who enquired into the case and side by side the placing the decission of the first enquiry (11) ing judicial officer, the sub - divisional magistrate - Puttur in C.C.No.1 of 31 on his file, pp 35-38 cr. The Honourable Board cannot accuse me in the opinions held by the former.

Most humbly pray that the Honourable Board that the issues raised by me and the answers given to each issue may kindly be perused and I, the most humble and loyal servant of the Honourable Board may be (13) graciously pleased to acquitted me from the above proceedings (14) launched against me.

(Errors 14 only)

I beg to remain,

Honoured Sir,

Your most, Humble , Loyal and

obedient servant,

M A N G A L O R E,)
)
Dated 19th Dec.'31.)

~~F~~ 85

A·S(L·R)

R. F. XXII-A-19-30,004—2-2-31 (6)

Subject.

FOR MEMBER. Village officers - (South Kanara) - Mangalore Tk. - Kairangala Vge - Headman. Suspension - Narain Bhatta - Revision Petition.

READ AGAIN B. P. No. _____ ,dated _____ 193

" " " _____ , " _____ 193 .

READ ALSO :—

Register No. _____. From the _____, No. _____ , dated _____ 193

" " _____, " " Bds Ref A·2082/31/2 & 26-11-31 pp 75-76 ca Q

" " _____, " " A 91/32 , pp 77-83 c·2 Q 193

_____, " " _____ " " _____, " _____ 193 .

RESOLUTION. Refee No. A·2082/31/3 dated 9-1-32 193

Forwarded to the Collector for ~~report~~ remarks in continuation of the Board's reference read above.-

K.S.
8/1/32
pm 8/1/32

To
The Collector of
South Kanara

with the petition in original to be returned
Hp 77-84 cf

11 JAN 1932

87

A132

D.Dis. 11435-31.

South Kanara Collector's office,
Mangalore, dated 8th January '32.

From

Khan Bahadur J. Hussain, Bar-at-law,
Collector of South Kanara.

To

The Secretary to the Board,
Land Revenue and Settlement,
Madras.

Sir,

Village officers - (South Kanara) -Mangalore Taluk - Kairangala - Headman - suspension - Naraina Bhatta - revision petition - report submitted.

pp75-76 c7 Board's reference A.No. 2082-31-2 dated 26th November 1931.

As directed in the Board's reference quoted above, I called upon the petitioner Naraina Bhatta to show cause in writing within one month why he should not be dismissed. The notice was served upon him on 5-12-1931. Though one month's time granted to him in the notice has elapsed, he has not yet responded to it. It has, therefore to be presumed that he has no statement to make.

For Collector.

pp 77-84 c7 wpd sent to Collector. 8.1.32.

I.S.(L.R).

The petition received from Narain Bhatta was forwarded to the Collector for remarks. p.85 c.7 This may be filed with the connected papers.

K.S. 12.1.32 12/1/32

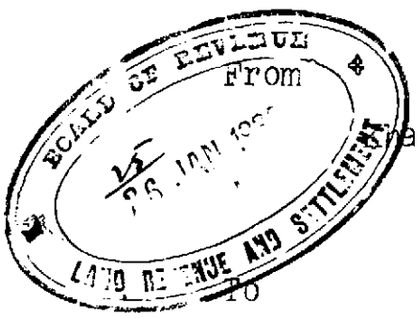
15-1-32

39

RD. 25
A. 318

D.Dis.No.542-32.

South Kanara Collector's Office,
Mangalore, 19th January 1932.



From Rao Bahadur J. Hussain, Bar-at-Law,
Collector of South Kanara.

To

The Secretary to the Board,
Land Revenue and Settlement,
M a d r a s.

Sir,

Village Officers - (South Kanara) - Mangalore Taluk - Kairangala village - Headman - Suspension - Naraina Bhatta - Revision petition - Report submitted.

Board's Reference No.A.2082-31-3, dated 9th January 1932.

p 8507.

The arguments adduced by the petitioner seem ------ unintelligible and incoherent. He is now apparently ---- attempting to question the validity of the Revenue ------- Inspector's action in carrying out the eviction order and to shift the blame on the Revenue Inspector. I have already fully dealt with the case in my D.Dis.No.9459-31, dated 1.11.1931 in reply to Board's reference A.No.2082-31-1 dated 24.9.1931 and there seem to be no new grounds in the present petition requiring my remarks.

pp 29-3207.

^p 2707

2. The petition, dated 19.12.1931 of Narain Bhatta received with Board's reference noted above is herewith resubmitted.

pp 77-8307.

^^p 8507

A. Krishnamurti
20/1/32

For Collector.

20.1.32

R. F. XXII-A-19- 30,004—2-2-31.(6)

Subject.

FOR MEMBER. Village officers - South Kanara - Mangalore Tk - Kairangala Vge - Headman - Suspension - Narain Bhatta - Revision Petition - Orders passed

READ AGAIN B. P. No. _____ ,dated _____ 193

" " " _____ , " _____ 193

READ ALSO:-- A-2082/31 pp. 1-11 c-7 Q

Register No. _____. From the Board's Ref A-2082/31/1 dt 24-9-31 pp 22-23 c-7 Q, No. _____, dated _____ 193

A-3101/31 pp 29-32 c-7 Q

" " Board's Ref A-2082/31/2 dt 26-11-31 pp 75-76 c-7 Q, " " _____, " _____, " _____ 193

A-91/32 pp 77-83 c-7 Q

" " A-318/32 pp 84 c-7 Q, " " _____, " _____, " _____ 193

RESOLUTION. Mis - No. 369 dated 3-2-1932

The petitioner has not satisfactorily explained why the ~~promote~~ promissory note was executed in his favour. His conduct in sending a warning letter to the Revenue Inspector the next day demanding early payment of the amount was in keeping with his conduct the previous night and throws strong suspicion on his bona fides. The fact that the accused is absconding probably with the connivance of the petitioner indicates that both are afraid

of the retrial. A notice was issued to the petitioner to show cause why the punishment should not be enhanced The Board has perused the written statement of the petitioner, and considers it that unsatisfactory. The Board It finds that the petitioner is guilty of grave misconduct in helping Hasana Beary against the Revenue Inspector, And the Board accordingly enhances the punishment to one of dismissal.

C.S. 1.2.32

To
The Petitioner
M.R.Ry
Narain Bhatta
Kairangala V/ge
Mangalore Tk.
South Kanara D

To
The Collector of South Kanara Dt. with the records returned.

(P) list of records at the bottom of page 32 c.2.

(M2)
S

V.O.S - (South Kanara) - Mangalore Tk -
A.S.(L.R) Kairangala - Headman - Suspension -
Narain Bhatta - Revision Petition.

A. 2082/31. pp. 1-11 C.7

TO. A.S.

Non Heraditary and Non Statutory

(2). No appeal lies and the revision petition is in time.

pp 1-11. C.7 (3) The petitioner moves the Board in
p. 13 C.7 Revision, against the Collector's order
Confirming the suspension for two years
p. 25 C.7 ordered by the R.D.O on the ground that he
was guilty of Gross misconduct, and
para 7 on p 5 C.7 states that he was innocent in the matter
that the promote was not written at his
para 10 on p 7 C.7 instance, but that the R.I. wrote it
"WP" are voluntarily and kept it with him (petitioner) as
security. He requests that the suspension
p. 11. C.7 may be cancelled after calling for the
records of the case

(4) The facts of the case are given below:—
p. 19 C.2 The R.I Panemangalore removed the evict.
of one Hassane Beary in a cart track
poramboke in the presence of the petitioner
who is the headman of the Village.
Hassane Beary who is known to be
p. 21 C.2 a desperate Moplah is alleged to have

threatened personal harm to the R.I for doing his duty. It is further alleged that, p. 21 c. 7
as by that time it was night, and as the R.I was new to the firka, the petitioner suggested that a pronote for Rs 200/- ~~may~~ might be executed in his favour as ~~Consideration~~ Compensation for the damage caused to Hassane Beary's house. On the next day p. 21 c. 7
the petitioner sent an unsigned letter in his own hand to the R.I asking him to make good the amount. The R.I filed a p. 23 c. 7
criminal case of extortion against Hassane Beary and cited the petitioner as witness. During his evidence the petitioner stated that the R.I voluntarily p. 23 c. 7
executed the pronote and that there was no suggestion from him. The pronote in question was recovered from the petitioner by the investigating police officer and until then the petitioner did not send a report about it. The ~~Sub-Divisional Magistrate~~ Divisional Officer found that the headman was guilty of gross misconduct and suspended him p. 25 c. 7
for two years.

(5) If the petitioners version that the pronote was given to him by the R.I is true, his subsequent conduct in demanding the amount on the next day and in not reporting the facts of the case

to the authorities and keeping the pronote with him till the investigating police officer searched his house, is quite inconsistent with his innocence. If on the other hand, the R.I's version is true the headman is guilty of suppressing the truth in a Court of law. Anyway he is guilty and it is not desirable to have such persons in service. The punishment given by the R.D.O is very light and there are no grounds for interference on behalf of the petitioner. The petition may be dismissed.

K.S. 7.9.31 As the punishment imposed by the Dist. officer is one of Suspension a second appeal does not lie to the Board.

fls 19-25 The Dist. officer's order does not clearly set out the charge against the petitioner. Evidently it is that he did not stand by the Asst. Superintendent but on the other hand helped Hasanu Beary in extorting a promissory note from the Asst. Superintendent. The Sessions Court discharged Hasanu Beary in the criminal case of extortion. The Dist. magistrate after perusing the order of discharge directed the Dist. officer to deal suitably with the Asst. Superintendent and the petitioner

The Divl. officer framed charges against them, heard them and suspended the petitioner for 2 years in his order dated 4-5-31. on 11-5-31 the Collector called on the petitioner to show cause why the punishment should not be enhanced but ultimately confirmed the Divl. officer's order and at the same time ordered a re-trial of the criminal case of extortion. The petitioner contends that the criminal case is being tried by the Treasury Deputy Collector Magistrate and pp. 4 + 5 c.f. and that the questions of the voluntary execution or the extortion of the promissory note and incidentally his conduct are at issue in the Criminal trial. If the petitioner really helped Hasane Beary against the Rev. Inspector the punishment of 2 years' suspension is not adequate. Cor. the Board enhance ord

Before disposing of the case it seems desirable to call for copies of (1) the judgment of the Sub Divl. Magt., Kundapur in C.C. 1/31 (2) the depositions of the petitioner and Rev. Inspector in the case (3) the charges framed by the Divl. officer, mangalore against the petitioner and A.D. and their explanations (2) their depositions at the retrial and (3) the judgment the T.D.C. Deputy

magistrate.

Draft
Dy
21.9.31

S 14/

14.9.31

To A.S. (L.A)

Draft submitted

K.S.
21-9-31

Issued as Board's Ref A. 2082/31/19 24.9.31
p. 27 C.7

M2
S

A. 3101/31 from Collector of
South Kanara pp 29-32 C.7

S. (L.R.)

To A.S.

The Collector of South Kanara has submitted the records. The retrial of the criminal case has not yet commenced has been
p 30 C.7 as the accused is absconding.

(2). The only point to be considered now
p 4. N.7. is whether the petitioner really helped the accused against the Revenue Inspector. Please see pages 29-30 C.7 for a brief history of the case. The Conduct of the petitioner does not help him in any way. Apart from the evidence of the petitioner and the Rev. Inspector there is the
^ pp 69-70 C.7 evidence of Thania Gatti, ^ Kumba Shetty ^^
^^ pp 71-72 C.7 and Narayana of whom the first two are
pp 73-74 C.7 independent witnesses The third witness

however, is the agent of Tajir. The evidence lends wholehearted support to the Revenue Inspector's version regarding the circumstances under which the promote was executed. The petitioner's version that it was the Revenue Inspector that voluntarily executed the note cannot be believed especially in view of the fact that the petitioner sent an unsigned letter (which he admitted in his evidence) demanding satisfaction of the promote. The Sub Divl. Magistrate Puttur in his discharge order says "I am readily unable to correctly understand the attitude of this witness (P.W.3 the petr). He appeared to be confused confounded and perplexed. He admits that the promote was executed by P.W.1 but he does not know why it was written in his favour". The Revenue Inspector was new to the place and persons around him. The fact that two of the witnesses cited were declared hostile shows that the witnesses were all in favour of the accused. The accused was known to be a desperate moplah and he held up the Rev. Inspector till 11 P.M. that night. Obviously the petitioner who is an influential man in the village took no steps to get help from the village and

Ignd. see how this pad helps to prove that the promote was executed voluntarily or not! one

p. 42 C. 2

p. 36 C. 2

and

Ridiculous. at p. 40 (T)

that the R.I. had a bad case!! are you mean "publicly" are

p. 36 C. 2

para 7 of p 32 c 7 "the conclusion is irresistible that but for the passive acquiescence the accused would not have gone to the length of extorting a promote from the Rev. Inspector". Please also see paras 5 and 6 of the Collector's report.

pp. 31-32 c. 7

(3) From the evidence of the petitioner both before the Sub Divl Magistrate, Puttur, and the Sub Divl. Magistrate, Mangalore, the petitioner admits that at that time there was another case of eviction pending against himself The petitioner's conduct in the present case might have been actuated by the desire to get the Rev. Inspector who was new to the firka, under his control for his own private ends.

p. 42. c. 7

p. 62 c 7

What were these two cases all about

Rather far fetched and R

(4) The Collector considered the question of enhancing the punishment awarded to the petitioner but has dropped. The reasons why the proposal was dropped are not clearly given.

p. 36 c. 7

(5) For orders

(a) Whether a notice calling upon the petitioner to show cause why he should not be dismissed be served

(b) If no notice is considered necessary whether the petition may be dismissed.

K.S. As the case is still pending trial it seems 11.11.31 [illegible] to write for [illegible] in both [illegible]

question of enhancing the punishment. The evidence cannot be said to be strong. The petition may be dismissed.

The charge against the petitioner is that he either abetted the alleged extortion or the subsequent creation of the pro-note. The petitioner explained that he did not advise the Asst. Inspector to execute the pro-note, that the A.I executed it of his own accord and gave it to him, that on reading it he found that it was executed in his favour and asked the A.I to take it back and that the A.I refused to do so and left it with him. The Dist. Officer observes that it was the duty of the petitioner to report to the authorities without delay all the facts of the case especially when he chose to retain the pro-note with him the previous night and that his conduct that night was in keeping with his subsequent conduct in sending a warning letter to the A.I the next day demanding early payment of the amount mentioned in the pro-note. He found that the petitioner was guilty of gross misconduct. The Dist. Officer also made enquiries and thought that the A.I's complaint of extortion of the pro-note was true. The remanded

p 11 of (K) & 11 a

pp 17 + 18 of (K)

observed as

p 31 of (K)

demand for

pp 5 + 7 of (T)

'criminal case is pending as the accused has been absconding but there is enough material on record for the disposal of the present petition. The petitioner conducted in sending an unsigned letter to the A.D and and in giving a prevaricating statement on oath before the Sub Divl. Magt, Cuttack shows strong suspicion on his bona fides. She is guilty of gross misconduct in helping Narayan Reddy as against the A.D and the punishment of 2 years' suspension is not adequate. The petitioner deserves dismissal.

I agree thereabout.

A.N. 16.8.31.

No 2.

A most curious case. The R.I. doesn't seem to me to come very well out of it! He ought to know that he can't go against powers of R.M.s (Patails) without suppressing facts. However it is not necessary to go into that. He is in rather a dangerous position, having visible tube used by the Patail (if he does) so long as the order of discharge, that finding that his (R.I.) story of the extortion is false, stands. However this is a matter sub judice. I think the proper order

in the case is to call upon the appellant to show cause why he should not be ~~[illegible]~~ to bail but that is unless he ~~appears~~ ~~[illegible]~~ in person before the Magistrate causes the production of the accused before the proper Court in the case where a writ is ordered the appellant will be informed of what may be awaiting for the result of the trial.

[The fact that the accused is absconding, ars 17/11.
together with the annexure of the appellant, indicate that both are afraid of the trial.]

There has been great delay in the case the petition was on 12/12/25. But the petition was only suspended in May (?) 1931 & trial ordered in June 1931. Why this delay? Is it all due to Police & Magistrate? ars 17/11

Since writing the above I have seen the appellant's petition at pages 41 et seq of the record. It is a very lengthy document but the appellant's statement of the matter is enough to damn him.

ars 17/11

make an order given
18/11/31

M2 11

S

AS.(L.R) To A.S.

~~[illegible]~~

As regards M2's querry marked A on p10 N.7. the following is submitted

The extortion of the promote was on

p.30 c.7 12-12-29. The Rev. Inspector complained to the Police

do. on 13-12-29. The promote was seized

p.36 c.7 on 15.12.29. The case was filed & in 1930.

before the Rev. Divl officer, Mangalore,

p.68c.7 Witnesses were examined on 27-5-30 and

p.60c.7 27-10-30. The case was ultimately transferred

p.34c.7 to ~~Rev. Divl. officer~~ the Sub Divl. Magt Puttur on 2-1-31 who

p.38c.7 disposed of the case on 30-1-31. The Collector

pp 7-8 of (X) ordered on 24-2-31 that the explanations

of the headman and the Revenue Inspector

should be taken. The headman was

p 31 of (K) suspended on 4-5-31. Action was taken

by the Rev. Divl officer Mangalore from

Flag (K) 24-2-31. Please see his D.Dis 1058-31 & 4/5/31

p. 2 of (T) of the Criminal case. The Collector ordered retrial on 19-6-31.

The headman was punished after the

trial of the Crl. case CC 1 of 31 was

completed. So there seems to be no

delay in the matter.

S

23-11-31

Except the above delays there are not enough to

KS. 19.11.31

24.11.31.

M2. Parties. What action should have been taken on my order 21/11 without waiting for note on my question

12 11

T.O A.S. (L.R.)

Draft submitted.

K.S
25/11/31

26.11.31.

Bdx Ref. A.O 2/31/2 dtd 11.31 pp. 75-76 C.7,
A 11/32 pp 77-83 C.7
Bdx of A.O 2/1/2 11/32 p. 5 C.7
A 132/32 p. 87 C.7
A 218/32 p. 92 C.7

M3
S
A.S (L.R.)

T.O A.S.

Please see the petition dated 19-12-31 pp. 77-83 C.7 from Narain Bhatta, headman of Kairangala ige, sent in reply to the notice issued by the Collector at the instance of the Board and the Collector's report thereon. The p. 89 C.7 petitioner has not satisfactorily explained why the pronote was executed in his favour and why he sent a warning letter to the Rev. Inspector demanding early payment. On the other hand he tries to throw the blame on the Rev. Inspector. As the petitioner has not given any specific reasons why the order of suspension should not be enhanced to one of dismissal, the Board may dismiss the petitioner as already decided upon. p. 10 N.7

30.1.32.

K.S
29/1/32

S

30/1/32

M3 Yes
CES
30/1/32

TO A.S.

A.S.(L.R) Draft submitted.

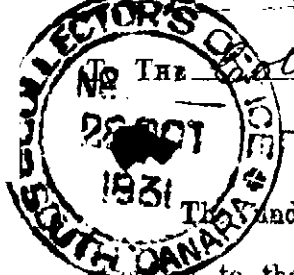
K.S.
1.2.32

1.2.32

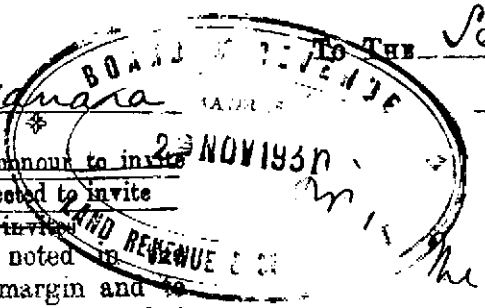
C. F. 98—10-9-28.

L. R. & Settlement DEPARTMENT.

1st REMINDER. Board of Revenue Branch. REPLY.



To THE Collector
South Kanara



To THE Secretary to the Board of Land Rev: & Settlement, Madras.

The undersigned has the honour to invite / is directed to invite attention to the communication noted in the margin and to request that this reminder may be returned at once with information as to—

Ref. A. No. 2082/31. dated 24-9-31

(1) the stage at which the matter now is,

(2) the date by which a reply may be expected, and

(3) the circumstances which have caused the delay.

2. It is requested that the reply to this reminder may be sent not later than

The reply to the Boards' reference will be submitted within a week.

for Collector
29.10.31

for Collector
Signature.
Designation.

Office Board of Revenue (Land Revenue)
Station Madras
Dated 26/10/31

BOARD.

Village officers - South Kanara - Mangalore Tk - Kairangala Vge - Headman - Suspension - Narain Bhatta - Revision Petition